UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 09 CR 660 (S-1) (JG)

:

-against- :

United States Courthouse
Brooklyn, New York

BETIM KAZIU, also known as :
"Abdurrahman al Albani,"
"Abdul Wahab al Albani"
and "Sayf-Ul-Islam,"

June 28, 2011

Defendant. : 9:30 o'clock a.m.

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TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE JOHN GLEESON
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

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United States Attorney
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APPEARANCES CONTINUED:

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Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

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(The following occurred in the absence of the prospective jury panel.)

THE COURT: Good morning.

Please be seated.

Okay. You already know that I excused some jurors based on the questionnaires beyond the granted joint motion to excuse the ones specified in that motion.

Is there any objection to the excusal of any of the jurors above and beyond those that you asked me to excuse?

MR. ARIAIL: None from the government, Your Honor.

MR. STERN: No, none from us.

THE COURT: Okay. What we will do today is call in the jurors in order, as best we can, and I will do follow-up questions based on their questionnaire.

We already have a couple of glitches. Juror number 15 didn't come, hung up on the jury clerk. When jury clerk called back, refused to come to the phone. I am giving up on juror number 15 in light of that.

I will pursue it myself a little bit further with the jury clerk, but obviously that juror whose questionnaire evinced no concern about serving as a juror in this case has had some kind of a change of heart.

So juror number 15 is not with us.

I am taking 66 out of order because -- what's with 66, Ilene? A doctor's appointment?

THE CLERK: Yes, Your Honor.

THE COURT: In the first batch, I have 20 jurors back there. We will bring them in one by one. In that first batch will not be number 15 but number 66 is in there.

All right? Why don't we start with -- any questions, by the way, counsel?

MR. ARIAIL: No, Your Honor.

MR. STEINGLASS: At some point, Your Honor, when it's more practical and efficient, we have an application. We wanted to make it yesterday. At some point when there is a break.

THE COURT: Okay. Whenever you want.

MR. STEINGLASS: I'd be happy to do it now. I don't want to delay things.

THE COURT: Let's not delay. We will go for a while, take a break. We'll do it at the beginning of the break. Remind me though, because I will forget.

MR. STEINGLASS: Yes, Your Honor.

THE COURT: Okay. Bring in juror number one, please, Ilene.

MR. DRATEL: Your Honor, how do you want us to alert you to a follow-up?

THE COURT: Ask me for a side bar.

If I miss a question to which there was an affirmative response that warrants a follow-up, just say, question 20.

All right?

(Juror number one present.)

THE COURT: Good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: How are you?

THE PROSPECTIVE JUROR: Good.

THE COURT: You are juror number one?

THE PROSPECTIVE JUROR: Exactly.

THE COURT: Welcome.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: You mentioned in your questionnaire that you -- did you serve in the war in Algeria, in the French Army?

THE PROSPECTIVE JUROR: Yes.

I was drafted when I was 19-and-a-half, did part of my service. We were drafted for 28 months, 29 months.

THE COURT: How long ago was that?

THE PROSPECTIVE JUROR: 1961 -- 1960, '61.

THE COURT: Okay. I take it, you are a naturalized citizen?

THE PROSPECTIVE JUROR: I am.

THE COURT: How long have you been living in America.

THE PROSPECTIVE JUROR: Twenty -- 28, 27 years;

1983.

THE COURT: Okay. In question 14 you mentioned that you were a private club manager before your retirement.

What kind of club was that?

THE PROSPECTIVE JUROR: A tennis club.

THE COURT: A tennis club?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You said you went to hotel school?

THE PROSPECTIVE JUROR: I went to hotel school in Nice, France.

THE COURT: I see.

Is that like a hotel management type of study?

THE PROSPECTIVE JUROR: You are learning about cooking and serving and the hotel system. I never graduated from there. I went to work directly in the industry.

THE COURT: You were the manager of this tennis club?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did that also have a restaurant facility and the like?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. You brought up on your questionnaire your service in the war in Algeria --

THE PROSPECTIVE JUROR: Yes.

THE COURT: -- in connection with a question that asked you whether in your opinion there was anything in the case that might hinder you even slightly from being an impartial juror.

Maybe you could elaborate on that a little bit?

Do you think that service you had might affect your ability to be fair in this case?

THE PROSPECTIVE JUROR: I don't think so. But it was so long ago now being drafted in a Muslim country, getting into war with Muslim rebels and knowing that -- at that time that was a war of independence. It was no extremism into the -- into the feeling of what was called the enemy then. They just wanted to be free from the rule of France. That's it.

THE COURT: Well, in this case, like in any other case, at the end of the trial I am going to tell the jurors collectively -- I will be speaking to them as a jury and individually as jurors -- I am going to tell them that the government has to prove each of the elements, ingredients of the crimes charged beyond a reasonable doubt and that if a particular juror feels that the government has failed to meet that heavy burden, then that juror has to vote not guilty.

Will you be able to follow that instruction?

THE PROSPECTIVE JUROR: Absolutely.

THE COURT: Okay. This case obviously, as you know, involves an allegation that the defendant sought to join

Al Qaeda, obviously a terrorist organization involving Muslims.

Is there anything about your service in France, any impressions you have, or with the French Army, any impressions you have or feelings you have that might cause you to be slightly biased in favor of the government?

THE PROSPECTIVE JUROR: I don't think so. I think that right now in 2011, and even the last eight, ten years, it become totally different ballgame for every Muslim nation. There was, when I did the war in Algeria, there was no extremism there, no religious fanaticism there.

Now, if you associate what's going on with Al Qaeda with something, I think that would be with a certain type of religious fanaticism.

THE COURT: It might the case here, I don't know -- in a sense I am kind of like jurors in that I don't really know what the evidence is. I am just a judge.

It is possible that the evidence might demonstrate that the defendant subscribed to and believed in and adhered to a form of religious extremism associated with Al Qaeda but yet was not proved guilty beyond a reasonable doubt of the particular crimes charged. I mentioned yesterday he's charged with conspiring to provide material support to a terrorist organization.

You might conclude, I am just guessing -- I don't know the evidence -- you might conclude the government proved that he wanted to be part of Al Qaeda, is a Muslim extremist, but the government failed to prove each of the ingredients of the particular conspiracy you are considering beyond a reasonable doubt.

Do you understand what I am getting at?

THE PROSPECTIVE JUROR: Yes, I do understand.

THE COURT: Do you think you could perform your duty to find him not guilty even if you thought he was a religious extremist?

THE PROSPECTIVE JUROR: Yes.

I think you have to judge with the evidence that both parties are giving you and see how far they can prove.

THE COURT: All right. If the government failed to prove beyond a reasonable doubt the particular crime charged, are you confident you could find the defendant not guilty even if you concluded he was a religious extremist?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you, sir.

Ilene is going to take you back to the jury room.

MR. DRATEL: Your Honor, 17, if Your Honor please.

THE COURT: Just one second, sir.

You were a juror before?

THE PROSPECTIVE JUROR: Yes. But never called to --

THE COURT: I got it. You got summoned down but you didn't get picked on a jury?

THE PROSPECTIVE JUROR: Exactly.

THE COURT: Thank you, sir.

MR. DRATEL: Thank you, Your Honor.

THE COURT: Okay. Ilene, you can take juror number one back.

THE PROSPECTIVE JUROR: Thank you.

(Juror leaves courtroom.)

THE COURT: This is juror number five.

(Juror number five present.)

THE COURT: Good morning.

THE PROSPECTIVE JUROR: Hi.

THE COURT: You are juror number five, I hope.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Good.

You've got a family member or close friend that works in law enforcement?

THE PROSPECTIVE JUROR: Yes, both.

THE COURT: Okay. Who would that be?

THE PROSPECTIVE JUROR: Brother-in-law and a friend.

THE COURT: Okay. Where --

THE PROSPECTIVE JUROR: And cousin.

THE COURT: Where are they, which agency?

THE PROSPECTIVE JUROR: The Bronx task force.

THE COURT: The what?

THE PROSPECTIVE JUROR: The Bronx task force.

THE COURT: Okay.

THE PROSPECTIVE JUROR: And one is in Suffolk County.

THE COURT: All right. What's your relationship to these folks?

THE PROSPECTIVE JUROR: One is my brother-in-law and the other one is a friend.

THE COURT: Okay. You discuss their work with them?

THE PROSPECTIVE JUROR: A little.

THE COURT: Okay. Do you know what kind of work they do specifically?

THE PROSPECTIVE JUROR: My brother-in-law, he teaches with the terrorism, like how to train.

THE COURT: Got it.

And the other one, your friend?

THE PROSPECTIVE JUROR: She basically, no.

THE COURT: Anything about those relationships that might affect your ability to be fair in this case?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. You seem confident of that. I like that.

Are you confident?

THE PROSPECTIVE JUROR: For the most part.

THE COURT: Okay. It really couldn't be more important, the job of a juror, but it is pretty easily stated.

It is to listen to the evidence fairly and impartially with an open mind, listen to my instructions and follow them, of course, and to render verdicts in the case based solely on the evidence.

Do you think you can do that?

THE PROSPECTIVE JUROR: I don't know.

THE COURT: You have some concern about it?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. How come?

THE PROSPECTIVE JUROR: Because I lost somebody in 9/11, just, you know, hard.

THE COURT: Okay. Do you think it might be a little emotional for you?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Maybe you ought to sit on some other case besides this one.

THE PROSPECTIVE JUROR: Okay.

THE COURT: All right. You are excused.

THE PROSPECTIVE JUROR: Okay. Thank you.

THE COURT: Thanks. Have a nice day.

(Juror number five leaves courtroom.)

THE COURT: Okay. You are going to get juror number ten.

THE CLERK: Yes, Your Honor.

THE COURT: Thank you.

(Juror number ten present.)

THE COURT: Have a seat.

Good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You are juror number ten, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Good.

Nice to see you.

A couple of things on the questionnaire I want to follow-up with you on.

One is, and I'm sure it was just inadvertence, but you didn't check yes or no in response to one of the questions.

One of the basic principles of our system is defendants are presumed innocent. They start out innocent. They remain innocent throughout the trial, throughout the jury's deliberations, and that presumption of innocence only goes away if a jury is convinced after deliberations that the government has proved the defendant guilty beyond a reasonable doubt. That is kind of a bedrock feature of our criminal justice system.

Do you understand what I am telling you?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Can you follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Yes?

The defendant in this case is entitled to a presumption of innocence and it is important that the jurors in his case give him that. If you are selected as a juror, can you presume him innocent?

THE PROSPECTIVE JUROR: I don't know.

THE COURT: You have some concerns about that?

If you do, tell me.

THE PROSPECTIVE JUROR: I don't know what to say.

THE COURT: Okay. What are you thinking?

THE PROSPECTIVE JUROR: Excuse me?

THE COURT: What are you thinking?

Are you concerned because of the type of case it is you might have difficulty being fair?

THE PROSPECTIVE JUROR: No.

THE COURT: No?

THE PROSPECTIVE JUROR: I --

THE COURT: Another one of the questions on here, I think you answered it no, is -- this is again another basic feature of our system, that is, a defendant doesn't have to testify. He can testify if he wants. This defendant, like any other, has the right to take the witness stand but he can't be forced to. That is because everybody has a right to remain silent and not have the silence held against him.

Do you understand what I am saying?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Can you follow that rule of law?

THE PROSPECTIVE JUROR: Well, you like said, he's got the right not to say nothing.

THE COURT: He's got the right not to say nothing.

THE PROSPECTIVE JUROR: Well, I think everybody does, right?

THE COURT: Yes, everybody does.

THE PROSPECTIVE JUROR: I guess.

THE COURT: Sorry?

THE PROSPECTIVE JUROR: Everybody does, right?

THE COURT: Everybody does. You and I, the defendant, everybody in the courtroom has a right to remain silent.

And this is the important part. They have a right to a jury that won't hold it against him if he is silent. They won't go back there and say, how come he didn't explain his behavior. You can't do that in our system. The government has the burden, not the defendant.

Do you understand?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Can you follow that instruction?

THE PROSPECTIVE JUROR: I think so, yeah.

THE COURT: You seem a little uncertain. I am just trying --

THE PROSPECTIVE JUROR: I am just nervous because my first time. That's why.

THE COURT: Oh. First time as a juror?

THE PROSPECTIVE JUROR: Yes.

THE COURT: All right.

THE PROSPECTIVE JUROR: Just a little nervous.

THE COURT: I could understand that. You are in a courtroom sitting by yourself, everybody watching you.

Do you think you could be fair in this case if you are selected to serve as one of the jurors?

THE PROSPECTIVE JUROR: Yeah, but I'd be nervous, like I said.

THE COURT: Do you think you'd be nervous even with all the other jurors sitting there with you while you are listening to evidence?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. I think I will excuse you. Take care. Have a nice day.

THE PROSPECTIVE JUROR: Okay. Thank you.

(Juror leaves courtroom.)

THE COURT: If at any point I excuse someone and you object, move fast before they go home because they are going home.

MR. STEINGLASS: Yes, Your Honor.

THE COURT: So say can I be heard at side bar, all right? Otherwise, I will assume there is no objection.

MR. DRATEL: Thank you, Your Honor.

Your Honor, this is juror 11?

THE COURT: No. This is juror 12, I hope.

MR. DRATEL: Eleven is gone.

There are a couple of -- does the court have the original --

(Juror number 12 present.)

THE COURT: Hi. Good morning.

You are juror number twelve?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Nice to see you.

You served as a juror in March?

THE PROSPECTIVE JUROR: In Nassau County, standby juror.

THE COURT: Standby jurors?

And you wrote on here the proof of service is lost.

You noted this in response to the question whether you wanted to be excused on hardship grounds.

THE PROSPECTIVE JUROR: That's what I was told, to write it down in that particular place.

THE COURT: I see. Got it.

That's not a hardship. I mean, it is good. I am glad you served as a juror in another court.

Any other hardship if you would serve?

THE PROSPECTIVE JUROR: No.

THE COURT: Have you ever been actually -- I see. You checked yes, then no.

You were a standby juror?

THE PROSPECTIVE JUROR: No. I was actually not standby. Yes, standby but I was not selected for the jury.

THE COURT: Okay. So you were never on a jury that was asked to deliberate? Is that correct?

THE PROSPECTIVE JUROR: Yes, that's correct.

THE COURT: Okay. Can you tell us a little bit more about the type of work that you do. You mentioned finance and technology. Can you --

THE PROSPECTIVE JUROR: I'm doing software development in bank.

THE COURT: Okay. Your wife is a doctor?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Any reason you can't be fair in this case, sir?

THE PROSPECTIVE JUROR: Nothing.

THE COURT: Okay.

THE PROSPECTIVE JUROR: No.

THE COURT: At the end of the case I am going to tell the jurors -- as I do in every case -- I am going to tell them exactly what the government has to prove with regard to each of the charged crimes beyond a reasonable doubt. And if it fails to prove any one of those things, let's say there are four ingredients of a particular charge, if it fails to prove any one of those ingredients, those elements we call them, the jury is going to have to find the defendant not guilty of that charge.

Can you follow that instruction?

THE PROSPECTIVE JUROR: Sure.

THE COURT: Okay. All right. Was there something else you wanted to bring to my attention?

MR. DRATEL: No.

THE COURT: All right. Thank you, sir.

Ilene will take you back too the jury room.

(Juror leaves courtroom.)

THE COURT: Next is juror 13.

(Juror 13 present.)

THE COURT: Hi. Good morning.

THE PROSPECTIVE JUROR: Hi. Good morning.

THE COURT: You are juror number 13?

THE PROSPECTIVE JUROR: Yes, I am.

THE COURT: Lucky number 13.

THE PROSPECTIVE JUROR: Oh, yeah.

THE COURT: Welcome.

Sorry to hear that your brother-in-law was a fireman on 9/11. Happy to hear he survived.

THE PROSPECTIVE JUROR: Surviving.

Thank you.

THE COURT: I wanted to follow up with you on this.

THE PROSPECTIVE JUROR: Sure.

THE COURT: You mentioned with a question that asked you whether there was anything that might keep you even slightly from being impartial, and obviously the defendant in this case, like every defendant, is entitled to a fair and impartial jury.

Do you think this experience and your brother-in-law's experience in 9/11 and his loss of friends might get in the way of you being fair in this case?

THE PROSPECTIVE JUROR: Unfortunately, I do.

THE COURT: All right. You are excused.

Thank you.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: Have a good day.

(Juror leaves courtroom.)

THE COURT: Number 14 is next.

(Juror number 14 present.)

THE COURT: Good morning.

Have a seat.

THE PROSPECTIVE JUROR: Hi. Good morning.

THE COURT: You are juror number 14, I hope?

THE PROSPECTIVE JUROR: I am.

THE COURT: Good.

Nice to meet you.

THE PROSPECTIVE JUROR: Likewise.

THE COURT: Thanks.

Be a little more precise about this mid-July travel trip because we are not going to get in the way of that.

THE PROSPECTIVE JUROR: I am taking my mom to El Salvador.

THE COURT: When, though?

THE PROSPECTIVE JUROR: The 15th.

THE COURT: The 15th. Okay. Don't worry about it.

THE PROSPECTIVE JUROR: Okay.

THE COURT: Even if you are a juror in this case, you will go on that trip.

THE PROSPECTIVE JUROR: Okay, sweet.

THE COURT: You previously worked -- oh, in HR as a recruiter?

THE PROSPECTIVE JUROR: A hum.

THE COURT: Okay. You gave a very thoughtful response to the last question on this questionnaire. I just want to follow-up with you briefly on it.

It is a delicate issue. You put your finger right on it, I think. Being a New Yorker, it is a delicate issue to face. However, I feel if chosen I would demonstrate objectivity without letting my judgment be hindered.

Well, that's what I like to hear. Are you confident that you can do what is required of a juror, which is to listen to the evidence in the case, keep an open mind, and then when deliberation time comes, base your verdict solely on the evidence in the case, not on the delicate issues that we all have in our minds after 9/11?

Can you base your verdict solely on the evidence in the case?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And follow my instructions on the law?

THE PROSPECTIVE JUROR: A hum.

THE COURT: Yes?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I take it from your answers, you could presume the defendant to be innocent and you won't hold it against him if he won't testify, correct?

THE PROSPECTIVE JUROR: Right.

THE COURT: What is your bachelor of science degree in?

THE PROSPECTIVE JUROR: Communication studies.

THE COURT: Okay, juror number 14. Thank you.

MR. ARIAIL: Your Honor, 17, 18 and 19.

THE COURT: Whoops. I guess I am not as done as I thought I was.

THE PROSPECTIVE JUROR: Okay.

THE COURT: You were a juror before?

THE PROSPECTIVE JUROR: I was.

THE COURT: State court -- once or more than once?

THE PROSPECTIVE JUROR: One time.

THE COURT: State or federal?

THE PROSPECTIVE JUROR: State.

It was out on Long Island. So not federal court. It was not federal. It was state.

THE COURT: You know we have a federal court out there.

THE PROSPECTIVE JUROR: I have not seen it.

THE COURT: Then you must not have been within 30 miles of it. Because it is gigantic.

What kind of case were you a juror in?

THE PROSPECTIVE JUROR: It was a domestic violence case.

THE COURT: Okay. I don't want to know what the verdict was.

Was it criminal or civil?

Do you know what I mean by that?

Was someone charged with a crime?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Was the jury asked to deliberate?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. It reached a verdict?

THE PROSPECTIVE JUROR: It did.

THE COURT: Okay. You yourself or a family member or close friend was a witness to a crime?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Tell me about that, please.

THE PROSPECTIVE JUROR: You know, I kind of have a colorful background so I kind of met a lot of people on the way. But I could say the most recent one was, unfortunately, myself and my nephew had to witness a drive -- like what do you call it, a hit and run with one of his little friends. So it was about a month ago; 11-year old boy was hit, severely hurt.

THE COURT: The driver drove away?

THE PROSPECTIVE JUROR: Yes, he drove away and everything.

THE COURT: Okay. Were you involved in the police investigation at all?

THE PROSPECTIVE JUROR: I wasn't as much as my younger nephew was.

THE COURT: Okay. Everybody is dying to know about this colorful background you are referring to.

How colorful was it?

THE PROSPECTIVE JUROR: A rainbow, very colorful.

THE COURT: Okay. Do you care to elaborate a little bit more on that for me?

THE PROSPECTIVE JUROR: Sure. But I don't know how. Do you have a specific question?

THE COURT: Yes.

Does the rainbow include being a witness or victim of a crime?

THE PROSPECTIVE JUROR: A victim, no; witness, probably.

THE COURT: What kind of crime?

This is going back in the distance past?

THE PROSPECTIVE JUROR: I mean, I -- I grew up with a lot of friends, you know, who didn't do so many of the right things, those things.

THE COURT: Understood.

You checked yes to a family member, close friend, ever been stopped or investigated or prosecuted.

THE PROSPECTIVE JUROR: A hum.

THE COURT: Why did you check yes to that?

THE PROSPECTIVE JUROR: Because it's true. What do you --

THE COURT: Okay. Good. That's a good --

What events in your life made yes the true answer to that question?

THE PROSPECTIVE JUROR: My dad has been in a lot of trouble. So --

THE COURT: Okay. Was he prosecuted?

THE PROSPECTIVE JUROR: In such as in this nature?

THE COURT: In any nature.

Let me tell you why I ask. I don't mean to pry any more than I need to.

THE PROSPECTIVE JUROR: Yes.

THE COURT: But have you or your family members had any experience with law enforcement?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Sometimes those experiences are so favorable or favorable in a certain way that it causes a person to like law enforcement enough that they might not be fair in a trial.

THE PROSPECTIVE JUROR: Oh.

THE COURT: They are so grateful the police did something that they are going to -- when the evidence is on the knife's edge, they are going to say well, the police treated us so well that I am going to give them this verdict.

Do you understand what I mean saying?

THE PROSPECTIVE JUROR: I didn't have that sentiment, no.

THE COURT: Sometimes it's in the other direction. There is a feeling of ill will for the way the police or the federal authorities handled something that leaves a bad taste in a juror's mouth and so they are not so fair to the government.

Did you ever have such an experience?

THE PROSPECTIVE JUROR: No, I have not.

THE COURT: All right. Can you be fair in this case?

THE PROSPECTIVE JUROR: I believe I can, yes.

THE COURT: All right. Thank you.

THE PROSPECTIVE JUROR: May I --

THE COURT: Yes. Ilene will take you back to the jury room.

THE PROSPECTIVE JUROR: Thank you.

(Juror leaves courtroom.)

THE COURT: Juror number 15 is next.

MR. ARIAIL: Your Honor, I am not sure but if -- I think some of the jurors, at least this juror it appears might have been a little more forthcoming at the side bar given the nature of the questions. I just wanted to note that for the Court.

THE COURT: Okay. Thanks.

Juror 15 is next.

(Juror number 16 is present.)

THE COURT: This is not 15. I mentioned 15.

You are juror 16, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: Welcome.

I just want to follow-up a little bit with you on your questionnaire.

It asked whether you might suffer a hardship if you served as a juror in this case. You mentioned an effect on your job and the company's financial condition.

Can you elaborate for me a little bit? What kind -- you are in the engineering department of a company?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How big is the engineering department?

THE PROSPECTIVE JUROR: It's a small company. It's about 20-something people.

THE COURT: Right.

THE PROSPECTIVE JUROR: It's in Long Island. And we just had about two, three months ago five people fired. I mean, laid off because of financial problems at the company and the engineering department now has maybe -- it used to be seven or eight, now it's only five.

THE COURT: Okay.

THE PROSPECTIVE JUROR: And the company is in a situation that it's not great, that the sales are down and we are struggling to make ends meet and so -- and I am basically running a lot of things in there. So it's kind of like a problem if it lingers more than -- two weeks or more, that's -- that would be a little bit affecting the company.

THE COURT: Right.

You get paid while you are on jury service?

THE PROSPECTIVE JUROR: I don't know. I am not sure. I am yearly salary but it may be taken out of my vacation or my other holidays. So I am not sure.

THE COURT: You didn't ask?

THE PROSPECTIVE JUROR: What?

THE COURT: You didn't ask? You don't know?

THE PROSPECTIVE JUROR: No, I didn't ask.

THE COURT: Okay.

THE PROSPECTIVE JUROR: I wasn't there to ask.

THE COURT: All right. You are excused.

Thank you, sir.

THE PROSPECTIVE JUROR: Thank you.

(Juror leaves courtroom.)

THE COURT: Next is number 17.

(Juror number 17 present.)

THE COURT: Have a seat right in that first chair, please.

Good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You are number 17?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Pleased to meet you.

THE PROSPECTIVE JUROR: Nice to meet you.

THE COURT: You mentioned in your questionnaire that you've got some college education. How much?

THE PROSPECTIVE JUROR: Just about a year.

THE COURT: Okay. You work in a museum now?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Good.

What's expected of jurors in any case, including this one, is that they listen to my instructions on the law and follow them.

Do you think you can do that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And then also listen to the evidence in the case with an open mind, fairly, objectively, and then at the end of the case decide, once I tell the jurors what the government has to prove beyond a reasonable doubt before the defendant can be found guilty, decide if the government has proved those things beyond a reasonable doubt based solely on the evidence in the case.

Do you think you can do that in?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Can you be fair to this defendant?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Thank you.

You will go back to the jury room now.

MR. DRATEL: Your Honor?

THE COURT: Sorry. What did I miss?

MR. DRATEL: Sixteen, 19.

THE COURT: Oh, I keep doing that.

You've got friends or family members who work in law enforcement?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Who is that?

THE PROSPECTIVE JUROR: My uncle.

THE COURT: Okay. Where does he work?

THE PROSPECTIVE JUROR: NYPD.

THE COURT: In uniform?

THE PROSPECTIVE JUROR: No.

THE COURT: Detective?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Where?

THE PROSPECTIVE JUROR: 69th.

THE COURT: Okay. 69th Precinct.

THE PROSPECTIVE JUROR: That's Brooklyn, right?

THE COURT: Yes.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Do you know what kind of work he does?

THE PROSPECTIVE JUROR: Narcotics.

THE COURT: Okay. Do you talk about his work with him from time to time?

THE PROSPECTIVE JUROR: Not really. He doesn't discuss it much.

THE COURT: Okay. Anything about that that would affect your ability to be fair?

THE PROSPECTIVE JUROR: No.

THE COURT: If you thought the government didn't prove its case here, you'd be required to vote not guilty.

Do you understand that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Would you feel any problem seeing your uncle at a family event and telling your uncle you voted not guilty?

Would that make you feel uneasy?

THE PROSPECTIVE JUROR: No.

THE COURT: All right. You checked yes to the question whether you or a family member or close friend has ever been questioned by law enforcement or investigated or arrested?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What's that all about?

THE PROSPECTIVE JUROR: Brother, uncle -- brother, dad, husband.

THE COURT: Your brother's dad's husband?

THE PROSPECTIVE JUROR: No; my brother, my dad, and my husband.

THE COURT: Oh, all of them?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Have been questioned, prosecuted? A little of both?

THE PROSPECTIVE JUROR: All three, I think.

THE COURT: All three. Okay.

Anything about those experiences that have left an impression on you favorable or unfavorable about the police?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. Anything --

THE PROSPECTIVE JUROR: They did something wrong. They got in trouble.

THE COURT: Okay. They did something wrong and got in trouble?

THE PROSPECTIVE JUROR: Yes.

THE COURT: In your opinion, did the police act unfairly?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. Did they act so well that you might be biased a little bit in favor of the government in this case?

THE PROSPECTIVE JUROR: No.

THE COURT: You are pretty sure you could be fair?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you. You are excused.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: Not excused. You are sent back to the jury room.

(Juror leaves courtroom.)

MR. STERN: Judge?

THE COURT: Next is 18.

MR. STERN: Judge, it's very useful when people who are quiet talkers when you repeat their answers.

THE COURT: Okay.

MR. STERN: So I don't want you to urge them to talk louder. It is useful when you repeat them and we can all hear.

THE COURT: Got it.

(Juror number 18 present.)

THE COURT: Good morning, sir.

THE PROSPECTIVE JUROR: Hi.

THE COURT: You are number 18, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Where is New Dorp? Is that along the beach on the south side?

THE PROSPECTIVE JUROR: Yes. It's pretty close to it.

THE COURT: But it's on the part of the Staten Island that faces, where? Is there a beach in New Dorp?

THE PROSPECTIVE JUROR: No.

THE COURT: No.

THE PROSPECTIVE JUROR: It's basically one neighborhood over the beach.

THE COURT: Oh. What do they call that neighborhood that's by the south, the beach on the south shore of Long Island?

THE PROSPECTIVE JUROR: On Long Island?

THE COURT: Sorry. Staten Island.

THE PROSPECTIVE JUROR: Tottenville.

THE COURT: Oh. That's not why you are here. I was just curious about Staten Island neighborhoods.

You checked yes to the question that you have a family member or you yourself or close friend in law enforcement.

Who is that.

THE PROSPECTIVE JUROR: My -- my dad worked for the New York DA's office and the Broward County DA's office.

THE COURT: So your father was a prosecutor?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is still a prosecutor?

THE PROSPECTIVE JUROR: Yes. He still has his license but now he is working in his own company.

THE COURT: I see.

How long ago was he a prosecutor?

THE PROSPECTIVE JUROR: About 20 years ago.

THE COURT: Okay. Did you ever talk to him about that kind of work?

THE PROSPECTIVE JUROR: Yes. He'd tell me stories about what he used to do at work and the law office.

THE COURT: Does he do criminal defense work now?

THE PROSPECTIVE JUROR: No.

He doesn't really do much in law. Sometimes he'll help our neighbor, like if our neighbors need a contract drawn up on something, they will come to him. But nothing like --

THE COURT: Okay. Anything about that, talking to your dad about his war stories from being a prosecutor, that might cause you to be partial to the government in this case?

THE PROSPECTIVE JUROR: I don't know. Not that I could think of off the top of my head.

THE COURT: All right. Obviously, this case is based on the evidence in this case, and I don't know it, neither do you, but it is important to the defendant in any criminal case that the jurors in the case base their verdicts solely on the evidence in the case, not on some impression they have coming into the courtroom, some belief they have based on some other, like a conversation with your father. It is very important that the evidence in the case be the only basis of the jurors' verdicts. I mean, other than their common sense.

Do you understand what I mean getting at?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you think you can do that?

Can you be fair in this case or do you think you might lean in favor of the government?

THE PROSPECTIVE JUROR: I don't know. From some of the stories I remember, probably it might be the other way around.

THE COURT: You might -- I see.

THE PROSPECTIVE JUROR: Yes.

THE COURT: You might be a little -- you are laughing when you say that.

It is just as important to know that you can be fair to the government. Can you be fair to the government?

THE PROSPECTIVE JUROR: Yes, I think so.

I mean, he had some -- he had some horror stories about some trials though that I can remember of just -- of basically of judges that were just sort of out to get a defendant really.

THE COURT: Oh. Horror stories about judges?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Oh, okay.

Anything about that that would affect your ability to be fair?

THE PROSPECTIVE JUROR: I mean, I could try to be fair. But that's -- that's -- I am just saying, that's what my experience has been.

THE COURT: Right.

I think I am going to excuse you.

THE PROSPECTIVE JUROR: Okay.

THE COURT: Take care.

THE PROSPECTIVE JUROR: Thanks.

(Juror leaves courtroom.)

(Juror number 19 is present.)

THE COURT: Hi. Good morning.

THE PROSPECTIVE JUROR: Hi.

THE COURT: You are juror number 19?

THE PROSPECTIVE JUROR: A hum.

THE COURT: Pleased to meet you.

You responded yes in your questionnaire yesterday to the question whether a family member or close friend has ever been a witness to or a victim of a crime.

How come you answered yes to that?

THE PROSPECTIVE JUROR: My uncle was involved with -- he used to own a bar and somebody was in the process of getting robbed and he tried to stand up to him and he got stabbed. In the process of defending himself, he had knocked this guy out. So it went to court.

THE COURT: How long ago was that?

THE PROSPECTIVE JUROR: Before I was born.

THE COURT: Oh, okay.

Is there anything about that that would affect your ability to be fair?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. In the last question in the questionnaire you were asked whether there was anything that might get in the way even slightly of you being an impartial juror.

You mentioned the fact that this man is being charged with crimes relating to conspiring with terrorists.

Do you think the mere fact that he is charged with that crime might affect your ability to be fair?

THE PROSPECTIVE JUROR: A little. Just because of everything with 9/11.

THE COURT: All right. I will excuse you.

Thank you.

(Juror leaves courtroom.)

MR. ARIAIL: Your Honor, if I may?

In terms of the question 27, Your Honor has been asking whether or not -- I think this is what Your Honor has been asking, is whether or not a juror might be fair. I think it would be helpful if, with those sorts of questions -- it is a hypothetical -- whether you could ask the juror if they could put such feelings aside and actually be impartial during the trial.

THE COURT: Okay. Thank you.

MR. ARIAIL: Thank you.

(Juror number 20 is present.)

THE COURT: Good morning, sir.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You are your number 20, I hope?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Nice to meet you.

THE PROSPECTIVE JUROR: Same here.

THE COURT: How much education have you had?

THE PROSPECTIVE JUROR: I've had up to four years of college.

THE COURT: Oh, okay.

What did you study in college?

THE PROSPECTIVE JUROR: Computer science.

THE COURT: And I see that you do that work in a workplace, is that correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Your workplace includes people like me who need an expert to turn on the PC?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. You or a family member or close friend has worked in law enforcement? Oh. You are referring to your mother?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What kind of peace officer is your mom?

THE PROSPECTIVE JUROR: She works in, you would say -- I would say education. She is the officer that you see when you enter into the school.

THE COURT: A school?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Got it.

Was that who you were referring to when you said yes, when a family member or close friend worked in law enforcement?

THE PROSPECTIVE JUROR: Well, that was the first one. I have other various friends who also work in law enforcement.

THE COURT: Okay. Are these close friends?

THE PROSPECTIVE JUROR: Some of them, yes.

THE COURT: Okay. Where do they work? In NYPD?

THE PROSPECTIVE JUROR: One works NYPD. Another one, he transferred from one department to another out of state. I am not sure which one it is right now.

THE COURT: I'm sorry?

THE PROSPECTIVE JUROR: He transferred out of state, another friend.

THE COURT: I got it. Okay.

Obviously, this case is brought by law enforcement. It is going to be assisted by law enforcement officers.

Is there anything about these relationships with your mom or your friends that might cause you to favor the government?

THE PROSPECTIVE JUROR: No.

THE COURT: You can be fair in this case to both sides?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. You checked yes in response to the question whether a family member or close friend had been stopped, questioned, investigated, prosecuted, et cetera, by law enforcement.

THE PROSPECTIVE JUROR: Right.

THE COURT: What's the event behind that or events?

THE PROSPECTIVE JUROR: One time it happened to my father, where he was making a legal turn and the officer stopped him, accusing him of making an illegal turn where there were witnesses saying that he had made the legal turn.

And also my girlfriend was also stopped for running a light and also causing an accident when there was no accident and she was in the right-of-way.

THE COURT: She had the right-of-way?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Were those cases mishandled by the police, in your judgment?

THE PROSPECTIVE JUROR: I would say, yes.

Because there are witnesses showing otherwise and then you go against the person and the witnesses, I feel that would be mishandled that way.

THE COURT: Okay. Anything about that? Do you have ill will about that that might cause you to be less than fair in this case or can you be fair in this case?

THE PROSPECTIVE JUROR: I don't try to hold judgment of those few people against everybody. So I try to be fair to everybody.

THE COURT: Do you think you can be fair in this case?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. I think that's it.

MR. ARIAIL: Seventeen, Your Honor.

THE COURT: Thank you, Mr. Ariail.

You were a juror before.

THE PROSPECTIVE JUROR: I wasn't a juror. Well, I had been picked to be selected as a juror before but I was never really picked.

THE COURT: You responded to a summons for jury service but weren't selected for jury?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you, sir.

Alicyn will show you back to the jury room.

(Juror leaves courtroom.)

(Continued on next page.)

(Juror number 22 present.)

THE COURT: Good morning. You're juror 22?

THE PROSPECTIVE JUROR: I am.

THE COURT: Nice to meet you.

THE PROSPECTIVE JUROR: You too.

THE COURT: I just had a couple of follow-up questions for you based on the questionnaire. You had one year of college, correct?

THE PROSPECTIVE JUROR: I did.

THE COURT: And what type of work generally does your wife do at the bank?

THE PROSPECTIVE JUROR: She's financing heavy equipment.

THE COURT: You can follow my instructions to the jury on the law in the case; is that right?

THE PROSPECTIVE JUROR: Absolutely.

THE COURT: Any reason you can't be fair in the case?

THE PROSPECTIVE JUROR: No.

THE COURT: I don't see any other questions I need to follow up on. Am I missing any, counsel?

Thank you, sir. Ilene is going to take you back to the juryroom.

(Prospective juror leaves.)

THE COURT: Next is 23.

(Prospective juror present.)

THE COURT: Have a seat, please. Good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You're Juror No. 23?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Nice to meet you.

You mentioned that you had this minor problem related to a doctor's appointment of your seven-year-old boy?

THE PROSPECTIVE JUROR: Yes. On Thursday.

THE COURT: I don't mean to pry, but is that just a regular annual checkup?

THE PROSPECTIVE JUROR: Yes, yes.

THE COURT: Any chance it can be moved?

THE PROSPECTIVE JUROR: I can try, yes.

THE COURT: Could you try to do that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I have kids myself and I know about annual checkups, and sometimes they are hard to move and sometimes they are not.

THE PROSPECTIVE JUROR: I'll reschedule it. It will take a month.

THE COURT: I know.

THE PROSPECTIVE JUROR: Yes.

THE COURT: I have a few other questions for you, but when you go I'm going to ask you -- did you have to check your phone downstairs or do you have it?

THE PROSPECTIVE JUROR: I have a phone downstairs.

THE COURT: Maybe we'll make a phone available to this gentleman if he's still on the panel when we are done. If you could call the doctor. If it's possible to move it I will appreciate it.

THE PROSPECTIVE JUROR: I can call this evening. They open until like 4 or 5 o'clock.

THE COURT: All right. You're a Website architect?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You served as a juror before?

THE PROSPECTIVE JUROR: Yes.

THE COURT: In state court or federal?

THE PROSPECTIVE JUROR: State.

THE COURT: Just once or more than once?

THE PROSPECTIVE JUROR: More than once.

THE COURT: More than once?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Have you been selected to sit on a jury more than once?

THE PROSPECTIVE JUROR: Just once.

THE COURT: In what kind of case?

THE PROSPECTIVE JUROR: It was injury.

THE COURT: Personal injury case?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did it settle or was the jury asked to reach a verdict?

THE PROSPECTIVE JUROR: It was settled.

THE COURT: You get your news from Yahoo and Google?

THE PROSPECTIVE JUROR: Yes, basically that's it.

THE COURT: On all jury panels these days there are lots of technologically savvy people for whom it might be difficult to follow my instruction that you can't go searching online for news about the case or anybody in it. You'll be able to follow that instruction?

THE PROSPECTIVE JUROR: Yeah. I'm not going to search for anything. I won't find anything in this case.

THE COURT: All right. You can be fair in the case?

THE PROSPECTIVE JUROR: I'll try.

THE COURT: All right.

I'm going to see if I can get you to a phone sooner than tonight because I'd like to have you on the jury panel but I don't want to get in the way of your son's annual checkup. Maybe you can call the doctor and if it's reasonable to move. It I would appreciate it if you can.

THE PROSPECTIVE JUROR: I will move it. Maybe I will move it a month later.

THE COURT: He's doing okay, he's not sick, right?

THE PROSPECTIVE JUROR: He's not sick. I can do that.

THE COURT: Thank you, sir. Alicyn will take you back to the juryroom.

(Prospective juror leaves.)

(Prospective juror present.)

THE COURT: Good morning.

THE PROSPECTIVE JUROR: Hello.

THE COURT: You're Juror No. 24?

THE PROSPECTIVE JUROR: Yes, I am.

THE COURT: Nice to see you.

THE PROSPECTIVE JUROR: Same here.

THE COURT: Thank you. I couldn't tell from your questionnaire whether you're still in school. Are you?

THE PROSPECTIVE JUROR: Yeah, I am still a college student.

THE COURT: What are you studying?

THE PROSPECTIVE JUROR: Premed. I'm minoring in premed, major in bio.

THE COURT: Good for you. Have you worked at any jobs in the past, like part time jobs or anything?

THE PROSPECTIVE JUROR: I have. I was working as an administrative assistant in New York Foundling Hospital. And that was about -- about December. Before that I was working in medical records, but that was like a summer job.

THE COURT: Your goal is to be a doctor?

THE PROSPECTIVE JUROR:

THE COURT: What kind of doctor do you want to be?

THE PROSPECTIVE JUROR: Right now, a general practitioner. I haven't been thinking like specifically in what field.

THE COURT: How did organic chemistry go?

THE PROSPECTIVE JUROR: I haven't taken it yet. Right now I'm taking my general core requirements because this is my first year. Now I'm taking Bio 201. This is where it's going to like start off.

THE COURT: Good luck with it.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: One of the questions on the questionnaire related to government witnesses who enter into agreements with the government and they testify in the hope that they get a lighter sentence in their own case.

They are often people who have pled guilty to crimes, sometimes even to the crimes involved in the trial -- although I don't know in this case -- but they are people who in exchange for a benefit from the government, which is a letter that helps them when they get sentenced, they provide testimony. Do you understand what I'm talking about?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And you were asked if you have any belief or opinions that would affect your ability to evaluate such testimony and you said yes.

THE PROSPECTIVE JUROR: Well, when it comes to beliefs, I would say it would come to like terms of values and norms, but other than that, like I don't think anything else would affect my judgment.

THE COURT: To elaborate slightly on what is already in this question, and it may not be the best worded question in the world, but what I'll tell the jury that sits in this case if witnesses like that testify, is, you got to be especially careful with those witnesses because those witnesses have a motive to provide testimony that pleases the government, and they have a motive to embellish, or maybe even make stuff up to please the government so that they can get a benefit in their own case.

Do you understand what I've said so far?

THE PROSPECTIVE JUROR: Yes, more or less.

THE COURT: What?

THE PROSPECTIVE JUROR: More or less. I understand.

THE COURT: You know, so the main job of jurors in a lot of cases is to decide who is telling the truth and who is not.

When it comes to witnesses like, the juror's guard has to be up because they have a motive, they have a stake in the case to please the government, that requires their testimony to be scrutinized with even greater care than the regular witness.

Having said that, I'll also tell the jurors that sit in this case that there is nothing wrong with the government calling those witnesses, they are allowed to, they are allowed to present such evidence and jurors have to be careful in evaluating it, but jurors also have to understand and follow my instruction that it's permissible for the government to call such witnesses and to depend upon them. Do you understand what I'm saying?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Can you follow those instructions?

THE PROSPECTIVE JUROR: Sure.

THE COURT: Can you be fair in this case, sir?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did I miss any questions, counsel?

MR. ARIAIL: 19, your Honor.

MR. STEINGLASS: And 16, your Honor.

THE COURT: I seem to miss those questions a lot.

You checked that you have a friend in law enforcement or a family member.

THE PROSPECTIVE JUROR: Yes, I do. One of my very close family members, my cousin, she works for the NYPD. She's actually like studying right now to become a lieutenant.

THE COURT: She's currently in uniform?

THE PROSPECTIVE JUROR: Yes. She's in uniform.

Right now she's like off duty because she's pregnant, but once she is out of that, she's continuing studying to become a lieutenant.

THE COURT: All right. Anything about that relationship that might get in the way of you being fair in this case?

THE PROSPECTIVE JUROR: Not at all.

THE COURT: You checked "yes" to the question whether a family member or close friend was questioned or investigated or prosecuted. What was that all about?

THE PROSPECTIVE JUROR: My cousin, my cousin tends to be a big troublemaker. Most of my family members are upset at the stupid things he do, but like we try to talk to him.

Even me, I treat him as a brother, and like I talk to him, telling him like what is right and what's not. Right now, you know, he needs a little more like guidance.

THE COURT: He's had some interactions with law enforcement, your cousin?

THE PROSPECTIVE JUROR: Yeah. He has.

THE COURT: Anything about those interactions, favorable or unfavorable, with regard to how the police handled it that would affect your ability to be fair in this case?

THE PROSPECTIVE JUROR: No. It won't affect my ability. Most of it is my cousin's fault for being such a --

THE COURT: Right.

THE PROSPECTIVE JUROR: You know, it wouldn't affect me.

THE COURT: Thank you. Ilene will show you back to the juryroom.

(Prospective juror leaves.)

THE COURT: Juror 31 is sick. There is also a bit of a language problem I inferred from the questionnaire. In any event, juror 31 is not here.

(Prospective juror present.)

THE COURT: You're Juror No. 25; correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Nice to meet you.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: I have a few follow-up questions based on your questionnaire you filled out yesterday.

You get your news from a lot of sources, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I'm going to kind of clamp down a little bit on the folks who are selected as jurors in that I'm going to give them very strong admonitions about making sure they avoid any information about the case, incoming information in terms of any reports there might be about the case, and avoid going to look for information about the details or type of case or the people involved in it.

Everybody Googles everything these days, but jurors can't Google anything about the case.

You'll be able to follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: If you are selected as a juror?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Any reason you can't be fair in this case, in your judgment?

THE PROSPECTIVE JUROR: I don't think so, your Honor. I did want to mention one thing and that is I work for a company that I was down at Ground Zero right after 9/11 for a couple of years and we continued to work on the Tribute of Light and Commemoration services. I don't think that that would influence me, but I felt I should at least make it known.

THE COURT: I'm glad you did. One of your colleagues on the jury panel I think really hit it on the head earlier today, saying, you know, this is New York in The post 9/11 era and this is a delicate topic, and the question is not whether any particular juror has feelings that are the result of the terrorist attacks on 9/11 -- I mean, most people who live in the city do, and I think it's fair to say that most of them have strong feelings.

But the question is really whether, notwithstanding that, a particular prospective juror can put those feelings aside, understand that every single defendant, including Betim Kaziu in this case, is entitled to a trial in which the jurors base their verdict solely on the evidence in the case.

Indeed, that is of a piece with my telling you that I'm going to admonish the jurors to make sure they don't go out and look for information. It's so important that jurors listen to and follow my instructions on the law and when deliberation time comes lay aside whatever impressions they have and decide if the government has proved what it has to prove beyond a reasonable doubt based solely on the evidence, or the lack of evidence that is adduced at the trial.

Do you think you can do that?

THE PROSPECTIVE JUROR: Yes, I do.

THE COURT: All right. Thank you, sir. Alicyn will take you back to the juryroom.

(Prospective juror leaves.)

MR. STEINGLASS: Your Honor, if I may? Benefit for cooperators is a lot more than a 5K letter because of the charging ability of the prosecutor. So I just will ventilate at some other time the concern of phrasing that issue.

THE COURT: Thank you.

(Prospective juror present.)

THE COURT: Good morning. You're Juror No. 26?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Nice to meet you. Welcome to the courtroom. You mentioned in your questionnaire that a family member or close friend worked or applied for a position in law enforcement?

THE PROSPECTIVE JUROR: Several.

THE COURT: Could you tell me a little bit about that, sir.

THE PROSPECTIVE JUROR: I have two friends that are officers of the law and I have a -- my son's friend right now is applying.

THE COURT: And your two friends in the NYPD or --

THE PROSPECTIVE JUROR: One is.

THE COURT: The other is where?

THE PROSPECTIVE JUROR: Freeport.

THE COURT: And what kind of work do they do, are they in uniform?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Anything about those relationships that would affect your ability to be fair?

THE PROSPECTIVE JUROR: No, sir.

THE COURT: You can base your verdicts on the evidence in the case?

THE PROSPECTIVE JUROR: Yes, sir.

THE COURT: You have been selected to serve as a juror before?

THE PROSPECTIVE JUROR: Yes, sir.

THE COURT: How many times?

THE PROSPECTIVE JUROR: Actually on a jury?

THE COURT: Yes.

THE PROSPECTIVE JUROR: I've only sat on a jury once.

THE COURT: So you have been summoned more than that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Picked once. What kind of case?

THE PROSPECTIVE JUROR: Drug case.

THE COURT: In federal court?

THE PROSPECTIVE JUROR: Yes, sir.

THE COURT: How long ago?

THE PROSPECTIVE JUROR: 26 years.

THE COURT: Have we not summoned you for 26 years?

THE PROSPECTIVE JUROR: I have been summoned several times. That is when I got picked.

THE COURT: We don't want to know what the verdict was, but did the jury in that case deliberate and reach a verdict?

THE PROSPECTIVE JUROR: Yes, sir.

THE COURT: Any reason you can't be fair in the case?

THE PROSPECTIVE JUROR: No, sir.

THE COURT: Did I miss any questions, counsel?

Thank you. You can go back to the juryroom. Ilene will take you back.

(Prospective juror leaves.)

THE COURT: Juror 28 is next.

(Prospective juror present.)

THE COURT: Good morning, sir.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: Have a seat in that first chair. You're Juror No. 28?

THE PROSPECTIVE JUROR: Yes, sir.

THE COURT: Nice to meet you.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: I have a few follow-up questions for you based on the questionnaire you filled out yesterday.

THE PROSPECTIVE JUROR: Okay.

THE COURT: You are a naturalized citizen?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How long have you been living in the United States?

THE PROSPECTIVE JUROR: I come here 1975, about 30 years.

THE COURT: You've served as a juror before? Have you ever been picked on a jury?

THE PROSPECTIVE JUROR: Yes, sir.

THE COURT: Once or more than once?

THE PROSPECTIVE JUROR: About two years ago on the local, local court.

THE COURT: Was it a criminal case or a civil case?

THE PROSPECTIVE JUROR: Criminal Court case.

THE COURT: We don't want to know what the verdict was but did the jury in that case reach a verdict? Do you understand the question?

THE PROSPECTIVE JUROR: No.

THE COURT: Did the jury deliberate in that case and reach a verdict of guilty or not guilty, one or the other?

THE PROSPECTIVE JUROR: They didn't pick me up.

THE COURT: They didn't pick you on the jury?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You work in the jewelry business?

THE PROSPECTIVE JUROR: Custom jewelry.

THE COURT: Custom jewelry. And in your workplace, do you speak in your native language or do you speak English?

THE PROSPECTIVE JUROR: Yeah, I speak little bit English in my business.

THE COURT: Your English seems pretty good to me but sometimes people whose native language is not English have trouble understanding all the evidence.

Do you think you might have any trouble understanding the evidence in the case?

THE PROSPECTIVE JUROR: Yes. I speak normal is okay.

THE COURT: You speak great.

THE PROSPECTIVE JUROR: Sometimes I heard things a little bit problem.

THE COURT: I think I will excuse you just from this case because it's possible we might have testimony you might not understand. So I will excuse you. Thank you very much. Have a good day.

THE PROSPECTIVE JUROR: Thank you.

(Prospective juror leaves.)

THE COURT: Next is 29.

(Prospective juror present.)

THE COURT: Good morning. Have a seat.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You're Juror No. 29?

THE PROSPECTIVE JUROR: That's correct.

THE COURT: Nice to meet you.

I have a few follow-up questions for you based on yesterday's questionnaire. You checked "yes" when asked if you have any family member or close friend in law enforcement. I was wondering why you checked yes, who you know in law enforcement.

THE PROSPECTIVE JUROR: I have a nephew work with the New York -- he's an attorney working for New York City Police Department.

THE COURT: Your nephew is a lawyer?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Who works in the PD?

THE PROSPECTIVE JUROR: He was with the Department of Correction. But he was with NYPD.

THE COURT: Is there anything about that relationship that would affect your ability to be fair?

THE PROSPECTIVE JUROR: No.

THE COURT: You can be fair?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You've been a juror before?

THE PROSPECTIVE JUROR: Yes, 24 years ago.

THE COURT: In federal court or state court?

THE PROSPECTIVE JUROR: Federal court.

THE COURT: And what kind of case was it?

THE PROSPECTIVE JUROR: Narcotics.

THE COURT: And we don't want to know what the verdict was, but did the jury deliberate and reach a verdict in the case?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you think you can be fair in this case?

THE PROSPECTIVE JUROR: Yes, your Honor.

THE COURT: Thank you. Ilene will take you back to the juryroom.

(Prospective juror leaves.)

THE COURT: 30 is next.

(Prospective juror present.)

THE COURT: Good morning. Have a seat.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You're Juror 30?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Pleased to meet you.

I just have a couple of follow-up questions based on yesterday's questionnaire. You have a masters in fine arts?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you work outside the home now?

THE PROSPECTIVE JUROR: In my studio, which is outside of my home.

THE COURT: What kind of work do you do?

THE PROSPECTIVE JUROR: Painter.

THE COURT: What kind of painting?

THE PROSPECTIVE JUROR: I don't know if you want the details, but --

THE COURT: I used to be a house painter, but my instincts tell me that's not the kind of work you do.

THE PROSPECTIVE JUROR: Contemporary image painting.

THE COURT: Great. I'm going to expect jurors in the case to refrain from any online searches to make sure they don't look for information about the case or the people in it, or the subject matter of the case, or let that information find them.

Can you follow that instruction.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Any reason you can't be fair in this case?

THE PROSPECTIVE JUROR: No.

THE COURT: Counsel, did I miss any questions? I don't think I did.

(No response.)

THE COURT: Thank you Juror 30. Alicyn will take you back to the juryroom.

THE PROSPECTIVE JUROR: Thanks.

(Prospective juror leaves.)

THE COURT: We're going to take 66 out of order.

I'm going to take 66 out of order but we're going to keep him for selection purposes in the current order. We're going to question him now. I'm not sure of the details, but I think he has something to do this afternoon. We'll make sure he's available.

(Prospective juror present.)

THE COURT: You're juror 66?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: So you're okay if we're done by July 13th or 14th?

THE PROSPECTIVE JUROR: 13th. I'm scheduled to be on a ferry at Point Judith to Block Island on the 14th.

THE COURT: Nice.

THE PROSPECTIVE JUROR: Vacation.

THE COURT: We won't get in the way of that. Are you a lawyer?

THE PROSPECTIVE JUROR: Well, I graduated from law school in 1974; never practiced, not admitted.

THE COURT: The law school itself drove you away from the profession?

THE PROSPECTIVE JUROR: No, I took the bar exam and passing that year was 121 and I was 119. I went up to Albany to review my paper. They threw out 12 questions on the multiple choice of which I had all answered correctly because of the ambiguities in the bar exam and that coupled with the fact that I really didn't feel I should be practicing law, I didn't. I was a businessman anyway.

THE COURT: Did you have something you need to do this afternoon?

THE PROSPECTIVE JUROR: Yes, I have a doctor's appointment in Glen Cove at 3 o'clock.

THE COURT: Other than that and this vacation you've got planned beginning July 14th, you're okay?

THE PROSPECTIVE JUROR: I am.

THE COURT: All right.

THE PROSPECTIVE JUROR: There is one other thing that I might want to bring up --

THE COURT: Sure, go right ahead.

THE PROSPECTIVE JUROR: Nowhere on the brochure did it indicate, but between the years 1976 or 77 and 1984 I was a sworn deputy sheriff.

Although I never functioned as a deputy sheriff, I was a liaison for the sheriff of Steuben County, New York who handled prisoners from Nassau County.

I lived in Nassau County so if they called upon me to do some sort of liaison work I did. I wasn't paid for it, but I took the constitutional oath of office. I was never trained and never functioned as a deputy sheriff.

THE COURT: Where is Steuben County?

THE PROSPECTIVE JUROR: Corning, New York; Bath, New York; Cornell, New York. Southern tier, Route 17.

THE COURT: I thought sheriffs repossessed cars or something. What were you doing, what was your job?

THE PROSPECTIVE JUROR: Well, the sheriff was at my wedding. His wife induced him to make me a deputy sheriff just in case, since at that time they were taking overflow prisoners from Nassau County.

He figured if he had a voice in Nassau County that was close to act as a liaison I would do it. I think he called upon me once in six years.

THE COURT: Anything about that that would affect your ability to be fair in this case?

THE PROSPECTIVE JUROR: Not at all. My only concern is that I should disclose it. Somewhere down the line it might be a concern.

THE COURT: But you could be fair in the case?

THE PROSPECTIVE JUROR: Absolutely.

THE COURT: You were a juror once before, sir, or at least once before?

THE PROSPECTIVE JUROR: Once many, many, many years ago, before I went to law school I was a juror and I was called once in federal court in Islip, but I was not selected and just once in my life.

THE COURT: Great. Thank you, sir. Ilene is going to take you back to the juryroom.

THE PROSPECTIVE JUROR: Thank you.

(Prospective juror leaves.)

THE COURT: 31, as I mentioned, is sick.

MR. DRATEL: Are you excusing her?

THE COURT: Who spoke to 31? I haven't excused her yet. I'm going to follow it up.

(Prospective juror present.)

THE COURT: Good morning. You are Juror 32?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Nice to meet you.

THE PROSPECTIVE JUROR: Thank you. Nice to meet you.

THE COURT: Thank you. I have a few follow-up questions based on the questionnaire you filled out yesterday.

THE PROSPECTIVE JUROR: All right.

THE COURT: You've been a juror before?

THE PROSPECTIVE JUROR: An alternate.

THE COURT: So you got picked, you sat but you didn't deliberate?

THE PROSPECTIVE JUROR: Exactly.

THE COURT: All right. And one of the questions asked whether you or a family member or a friend had been stopped or questioned, investigated, arrested, et cetera, and you checked "yes." What was that all about?

THE PROSPECTIVE JUROR: My cousin, something about rent.

THE COURT: Did he get into a situation where the police got involved?

THE PROSPECTIVE JUROR: No, I think he was just held and released.

THE COURT: Anything about that that would affect your ability to be fair in this case?

THE PROSPECTIVE JUROR: No.

THE COURT: You have a thumbnail sketch of what the case is about. Any reason you can't be fair in the case?

THE PROSPECTIVE JUROR: No.

THE COURT: Did I miss any questions, counsel?

MR. ARIAIL: No, your Honor.

THE COURT: All right. Thank you, Mr. Number 32. Alicyn will take you back to the juryroom now. Thanks very much.

(Prospective juror leaves.)

THE COURT: If we get 40 people today we're going to do peremptories today. If we do peremptories today and number 66 is part of the 40, he's not going to be here because I'm going to let him go to the doctor's appointment.

I know lawyers sometimes like to see the panel when they do the strikes but his chair is going to be empty. If you want to see him again -- he's got to leave by 12:30 -- you tell me and I will bring him in and you can eyeball him. But his chair is going to be empty if we do peremptories this afternoon. All right?

(Prospective juror present.)

THE COURT: Good morning.

THE PROSPECTIVE JUROR: Hello.

THE COURT: You're juror 36?

THE PROSPECTIVE JUROR: Yes, I am.

THE COURT: Pleased to meet you.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: Welcome to the courtroom. I have a few follow-up questions based on yesterday's questionnaire. How much college have you had, roughly?

THE PROSPECTIVE JUROR: About 30 credits.

THE COURT: And tell us a little bit more, please, about what you do. You are in telecommunications, high tech?

THE PROSPECTIVE JUROR: Yes. Can I mention a company?

THE COURT: Yes.

THE PROSPECTIVE JUROR: I've worked for Verizon for 17 years. We do data multiplex. We restore them and repair them. I am still actually in college because I'm in a college group Verizon course, so it's an a four-year program and we go once a week during work hours.

THE COURT: Got it. You have a family member or close friend who's in law enforcement?

THE PROSPECTIVE JUROR: My son just got hired with the New York Police Department.

THE COURT: Just got out of the academy?

THE PROSPECTIVE JUROR: In December he did.

THE COURT: And he's in uniform somewhere?

THE PROSPECTIVE JUROR: Yes, he's on foot patrol.

THE COURT This case is brought by law enforcement authorities and there will probably be some agents, maybe some police officers who will testify; anything about this, the fact that your son is a police officer that would affect your ability to be fair?

THE PROSPECTIVE JUROR: I don't believe so.

THE COURT: Do you think you can be fair in the case?

THE PROSPECTIVE JUROR: Sure.

THE COURT: Counsel, did I miss anything?

MR. ARIAIL: No, your Honor.

THE COURT: Hearing nothing, I will ask you please to go back out. Alicyn will show you back to the juryroom. Thank you.

(Prospective juror leaves.)

THE COURT: Number 39 is next.

(Prospective juror present.)

THE COURT: Good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You're Juror No. 39?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Nice to meet you. I just have a couple of follow-up questions based on the questionnaire from yesterday.

You are a huge consumer of news?

THE PROSPECTIVE JUROR: Well, I don't read like all the way through.

THE COURT: Right. But you have a lot of sources. I only bring it up because I'm going to be pretty adamant with the jurors who sit in this case that they make sure they don't let any news, not only about the case, and I don't know that there will be news about the case, but any news about the subject, really, the subject broadly defined.

It's really important that jurors are quarantined in the sense that the only information that they base their verdict on is the evidence that comes from that witness stand and the exhibits that I receive in evidence. I'm going to expect jurors to comfort themselves accordingly. Can you do that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I think that's all I have.

Counsel?

MR. DRATEL: 16, your Honor.

THE COURT: You have a family member or close friend in law enforcement?

THE PROSPECTIVE JUROR: No. My brother applied to the FBI but didn't end up working there. My husband interned his first law of law school at the U.S. Attorney's office.

THE COURT: Where?

THE PROSPECTIVE JUROR: I think it was in Bridgehampton, Connecticut. Definitely Connecticut.

THE COURT: Your husband is not a lawyer now?

THE PROSPECTIVE JUROR: He is a member of the bar but doesn't work as an attorney.

THE COURT: How long ago did he intern with the U.S. Attorney's office?

THE PROSPECTIVE JUROR: It was before we started dating -- I think probably 2005 or '6.

THE COURT: You may have said this, if you did forgive me. Did he ever practice law?

THE PROSPECTIVE JUROR: No.

THE COURT: Anything about those relationships that would affect your ability to be fair in this case?

THE PROSPECTIVE JUROR: I don't think so.

THE COURT: You can be fair to both sides?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Yes?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you. Ilene will take you back to the juryroom.

We will take a ten-minute break now.

(Prospective juror leaves.)

THE COURT: Mr. Steinglass, you have an application?

MR. STEINGLASS: Perhaps I'd be more comfortable doing it in four or five minutes from now.

THE COURT: We will do it at the end of the break.

(Recess.)

(Open court.)

THE COURT: Yes, Mr. Steinglass?

MR. STEINGLASS: Thank you, your Honor.

This is not an application made lightly. It's an application for a continuance, and let me explain briefly why.

Yesterday, after three lawyers met with the client in the morning, after the preliminaries with the jury and the questionnaires, I called chambers, as I'm sure your Honor is aware, and said I had an application.

I don't see any problem with our making it this morning, just that if it were granted, certainly it made sense to make it immediately.

The problem is this. It was not until Saturday that we learned that the first thing that was referred to in the 3500 material as Ahmed the Somali was not going to be called as a prosecution witness.

In the government's papers requesting an anonymous jury -- and I apologize for not having those papers at my fingerprints -- the government indicated that they were going to call a person who, to paraphrase, facilitated, or was trying to facilitate the efforts of the client to get to Somalia, and the allegation is to get to Somalia to fight with Al-Shabab.

So we learned on Saturday when I called and asked one of the prosecutors, Mr. DuCharme, we don't have 3500 material for Ahmed the Somali and certain others that I don't think it's necessary to go into at this point because they're not overseas, and I'm told that this particular person is not going to be called.

Just briefly, we received some 3500 material, a considerable quantity, I believe on, maybe it was Monday of last week, relating to certain agents and others, but we did not receive the roughly four inches or so of material relating to this -- I will call him the cooperating witness -- until Friday afternoon at about 4:00 o'clock or a little bit after 4:00.

In going through that, it become apparent that there were certain people we thought were going to be called based on conversations the government, so we are not now in a position -- of course, if this person were in Brooklyn or in the district, we could just simply go and arrange to have this person testify.

But what the government wants to do, and this is something I do have a copy of, this is the government's request to introduce coconspirator statements, what they call coconspirator statements.

If I could hand up a copy of this, your Honor?

(Pause.)

MR. STEINGLASS: I'm referring to page two at the top which is the government's summary. The government wants to call CW to testify to what they say are certain coconspirator statements that were made by this Ahmed the Somali, which we are in no position -- based on what indications we have, this person is not in the United States, not somebody -- we have to find this person and take a Rule 15 deposition, if your Honor would permit it, in order to attempt to deal with this accusation.

What the government will say, of course if it's true then this is an adverse witness, but we don't have anything to verify that other than we have CW who is going to come here and say they things happened. We have no way to refute that. It's really a matter of fundamental fairness we be given an opportunity to do that.

There are other people who are named in this 3500 material. One of them is Murad, M-U-R-A-D, or perhaps M-O-U-R-A-D, and there is some indication he's in Germany at the present time. He apparently was somebody who was in Cairo at the time when Mr. Kaziu was in Cairo.

It may well be that he has something important to say in this case, and we're in a similar situation, except of course we were never told the government was going to be calling that person so the government may argue, Well, if we had this name we might have been able to find him, interview him, depose, etcetera.

Now, I know we have a lot of important things, and I appreciate your Honor's hearing this application. The context here is, Well, the practice in the district here is to give the 3500 the way this was done, and we appreciate that we got it on Friday at 4:00 o'clock and not on Monday or Thursday of this week, is, I submit, fundamentally unfair in a case like this to give us four inches of 3500 material -- a lot of it is handwritten, it isn't even numbered -- and expect, with everything else that's going on, that we're going to be able to utilize this material properly.

But I don't expect that that would warrant any significant continuance. If we wanted a little more time in that regard, we could ask for an afternoon or something of that sort, but this problem that I'm talking about is not soluble in that fashion, and it is the constitutional right to present the defense or fundamental fairness, and recognizing of course what it means to everybody involved here -- Mr. Kaziu is in jail -- there ought to be an opportunity for us to do what I indicated.

There's another aspect to this which I'd like mention because CW is going to be asked not only to recount statements he claims were made by this person Ahmed the Somali, but also statements made by Armend Kalanderi.

As your Honor knows, Mr. Kalanderi testified at the Rule 15 deposition. There is something else here which I submit is fundamentally unfair and impacts our ability to present a defense and that is when we were here in front of your Honor before the Kosovo depositions, Mr. Stern said to your Honor we would like from the government -- I don't remember the exact phraseology, and I apologize for not having those minutes handy, but they are in the record -- that basically we wanted from the government statements they had because they had interviewed Mr. Kalanderi.

We wanted those statements basically because once we had the Rule 15 deposition and it was over, we wouldn't be able to go back to him as a practical matter if something else came up, as it has at this point in time.

The government argued, Well, that's like 3500 material, we don't have to give it, don't have to give it at this time, and your Honor made a statement to the effect that, Well, under Rule 15 you don't have to try to use the person and your Honor denied the application.

I'm not rearguing the application, but now the government, for the first time, even though they were there in Kosovo, they cross-examined Mr. Kalanderi, they never asked him about the things that they now want to get CW say here in the courtroom even though they have had what CW to say from basically day one in this case.

So we are not in a position to go to Mr. Kalanderi and say, Mr. Kalanderi, CW says X,Y and Z, that you went to a meeting, you said certain things which were summarized in that letter there. Well, is that true? Is that not true? So the jury will not be able to hear that.

I submit to your Honor that is also fundamentally unfair. There is a cure for that, and it's similar to the cure for Ahmed the Somali, that is you continue the trial, we can have Mr. Stern go back to Kosovo with the prosecutors and we can re-depose Mr. Kalanderi.

Short of that, of course, your Honor could deny the application to admit the coconspirator statements, but there is no solution, I submit, related to Ahmed the Somali. Of course, if we were thinking remedies, another short of continuance would be -- maybe it's not short, maybe it's more severe -- would be to preclude CW from testifying about what they claim are these meetings where Ahmed the Somali supposedly said certain things.

I don't think that would fully solve the problem. We have to go through and identify Mourad or other people and we have not finished analyzing all this material even though we have been, all of us, working over the weekend, etcetera. That's basically it, your Honor. Thank you for hearing me out.

(Continued next page)

THE COURT: You are welcome. Denied. Bring in Juror Number 40.

(Prospective Juror Number 40 enters courtroom)

THE COURT: Welcome. I just wanted to follow up on a couple of answers you gave on yesterday's questionnaire. You mentioned in the questionnaire that you or a family member or close friend have been a witness to or victim of a crime. I was wondering what caused you to say yes to that.

PROSPECTIVE JUROR NO. 40: I was mugged.

THE COURT: Long time ago?

PROSPECTIVE JUROR NO. 40: Yes, quite a while ago.

THE COURT: Okay. Anything about that, that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR NO. 40: I don't see any connection.

THE COURT: Okay. And you also checked yes to the question whether you or a family member or close friend was questioned or investigated or arrested; is that out of the same THE incident, mugging?

PROSPECTIVE JUROR NO. 40: No.

THE COURT: Oh.

PROSPECTIVE JUROR NO. 40: No, I was arrested for DWI.

THE COURT: Oh, how long ago was that?

PROSPECTIVE JUROR NO. 40: Forty years ago.

THE COURT: Anything about the way it was handled that would impair your ability to be fair in this case?

PROSPECTIVE JUROR NO. 40: I have a lingering resentment of law enforcement.

THE COURT: Okay. You think that lingering resentment might influence your ability to be fair, I take it?

PROSPECTIVE JUROR NO. 40: I would try not to let it influence me but --

THE COURT: Okay. Do you think you'll succeed if you were a juror in the case or do you think you hold kind of a grudge, I take it?

PROSPECTIVE JUROR NO. 40: I guess I have to say, that, yes.

THE COURT: All right. I think I'll excuse you.

Thank you.

PROSPECTIVE JUROR NO. 40: Yes.

(Prospective Juror No. 40 exited)

(Prospective juror number 41 enters courtroom.)

THE COURT: Please be seated.

Good morning.

PROSPECTIVE JUROR NO. 41: Good morning.

THE COURT: Sorry to keep you waiting, nice to meet you. You are juror number 41.

PROSPECTIVE JUROR NO. 41: Yes.

THE COURT: Well, we're just going to follow up on a couple of answers you gave in yesterday's questionnaire. One of them was the answer yes to the question whether you been a juror before. Have you been selected to sit on a jury in the past?

PROSPECTIVE JUROR NO. 41: Yes.

THE COURT: More than once?

PROSPECTIVE JUROR NO. 41: Just once.

THE COURT: What kind of case?

PROSPECTIVE JUROR NO. 41: Robbery.

THE COURT: State court?

PROSPECTIVE JUROR NO. 41: City.

THE COURT: And we don't want to know what any verdict was but in that case was the jury asked to deliberate and reach a verdict?

PROSPECTIVE JUROR NO. 41: Yes.

THE COURT: Did it?

PROSPECTIVE JUROR NO. 41: Yes.

THE COURT: You checked yes to the question whether you or a family member or friend were questioned or stopped or investigated or arrested or something like that. How come you answered yes to that? What were the events giving rise to that?

PROSPECTIVE JUROR NO. 41: I've had quite a few family members arrested.

THE COURT: Oh, trouble with the law?

PROSPECTIVE JUROR NO. 41: Yes.

THE COURT: Okay. Anything you know about the fact that that happened or how it was handled that left you with a feeling positive or negative about the police or law enforcement that might affect your ability to be fair?

PROSPECTIVE JUROR NO. 41: No, I wouldn't have a problem.

THE COURT: You could put that aside and base a verdict solely on evidence in this case?

PROSPECTIVE JUROR NO. 41: Yes.

THE COURT: You seem confident of that, are you?

PROSPECTIVE JUROR NO. 41: Yes.

THE COURT: Great. Any reason you can't be fair in this case?

PROSPECTIVE JUROR NO. 41: No reason at all.

THE COURT: All right. So that's all I got. Counsel, did I miss any questions I should follow up with this prospective juror? I take that as a no. Thank you.

MR. ARIAIL: Just clarify the answer on 25.

THE COURT: It looks pretty clear to me. Crossed out yes and put no.

Thank you, have a good day.

You will be back in the jury room okay.

(Prospective Juror No. 41 exited the courtroom)

THE COURT: You know what we always tell jurors and we have not told them yet and nobody's mentioned it -- not to discuss the case. So I'm going to go back without the court reporter and I will go with my law clerk. We will hold this juror for a moment and just give that admonition. Anybody object?

(Whereupon Judge Gleeson exited; Judge Gleeson returned)

THE COURT: Still morning. Good morning, sir. How are you. You are Juror Number 42?

PROSPECTIVE JUROR NO. 42: Yes.

THE COURT: Pleased to meet you.

PROSPECTIVE JUROR No. 42: Likewise, me too.

THE COURT: You've been a juror before, sir?

PROSPECTIVE JUROR NO. 42: A while ago.

THE COURT: Did you get picked to sit on a jury?

PROSPECTIVE JUROR NO. 42: I was an alternate.

THE COURT: So --

PROSPECTIVE JUROR NO. 42: The case was dismissed before it even went to trial.

THE COURT: Okay. There's a couple of blanks on the questionnaire, so let me just follow up with you. You were asked whether you knew any of these people -- prosecutor are here in order: Ali Kazemi, Shreve Ariail, Seth DuCharme -- sorry, what is your name at the far end of the table?

AGENT RODDY: Stephanie Roddy.

THE COURT: Do you know any of those folks.

PROSPECTIVE JUROR NO 42. No.

THE COURT: David Stern, the defendant Betim Kaziu, Joshua Dratel, Henry Steinglass.

PROSPECTIVE JUROR NO. 42: No.

THE COURT: You left blank and maybe it's because you, like some others, don't seek out the news but --

PROSPECTIVE JUROR NO. 42: I don't really follow the news, I don't watch it, just the weather. That's it. There's a too much drama in the world. I don't want to be more let down.

THE COURT: Any reason you can't be fair in this case, sir?

PROSPECTIVE JUROR NO. 42: I was explaining earlier, not to be fair, but to be he excused. My wife is 34 weeks pregnant. I am more concerned about her. I can't have my phone on me. I need to know if anything happens, god forbid, if anything, but to be fair-wise, I don't see why not.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 42 : I mean my mind would be more set on my wife.

THE COURT: I am not good on the weeks, what is the due date?

PROSPECTIVE JUROR NO. 42 : August 11th.

THE COURT: What if you had your phone on you think ti would better?

PROSPECTIVE JUROR NO. 42: If I could have my phone, god forbid, if anything happens --

THE COURT: Your wife is 34 weeks along, you will have your phone on you. I will make that happen.

PROSPECTIVE JUROR NO. 42: That will make me happy but you know, it's like I'll be more concerned about if anything goes wrong with her. Would I be able to be dismissed?

THE COURT: Understood. Now, will your concerns be met if you have the phone so she can get ahold of you?

PROSPECTIVE JUROR NO. 42: That's one of my concerns, just worried about my wife right now.

THE COURT: But if I let you have your phone and you are on the jury, I don't want you in there, like, making phone calls.

PROSPECTIVE JUROR No. 42: No, I am saying, god forbid, anything happens she becomes pregnant prior to the jury would I be able to be dismissed off the jury?

THE COURT: Yes, of course. She's due August 11th.

PROSPECTIVE JUROR NO. 42: Yes.

THE COURT: Pretty good bet for us we will be done my then.

PROSPECTIVE JUROR NO. 42: You never know.

THE COURT: You never know , but I am not going to --

if your wife goes into labor I am going to cut you loose.

PROSPECTIVE JUROR NO. 42: Fair enough.

THE COURT: But you got to promise me if I let you have your phone in there you are going to use it for incoming purposes and not be texting people while you're in the jury room.

PROSPECTIVE JUROR NO. 42: I would keep it off just check it once in a while and make sure she don't call in.

THE COURT: You could keep it on. I just want you to use it for that purpose.

PROSPECTIVE JUROR NO. 42: I want to be more concerned if anything ever happens. Like right now, I am trapped. I am trying to get out here as fast as possible to see if she called. So that's what I'm concerned about.

THE COURT: You know when we are done we are going to get you your phone back so you can have it.

PROSPECTIVE JUROR NO. 42: Sure.

THE COURT: But I want you to, in exchange for that, I want you to promise you only use it so your wife can get ahold of you. Fair enough?

PROSPECTIVE JUROR NO. 42: Fair enough.

THE COURT: If a concern is met in that way, can you be fair in this case?

PROSPECTIVE JUROR NO. 42: I can be biased.

THE COURT: I'm sorry?

PROSPECTIVE JUROR: I could be biased.

THE COURT: First you said I could be biased?

PROSPECTIVE JUROR NO. 42: I meant fair.

THE COURT: You can be unbiased. Did I miss any questions? Apparently, you checked yes to the question whether someone's been stopped, investigated or prosecuted. What was that all about?

PROSPECTIVE JUROR NO. 42: Stopped. I was prior, to this, I had something that should be hopefully dismissed for myself.

THE COURT: Oh. You have a case.

PROSPECTIVE JUROR NO. 42: It should be ending soon.

THE COURT: What kind of case?

PROSPECTIVE JUROR NO. 42: Year ago, almost.

THE COURT: What kind of case?

PROSPECTIVE JUROR NO. 42: Picked up for possession.

THE COURT: Of?

PROSPECTIVE JUROR NO. 42: Marijuana.

THE COURT: Okay. Case is pending?

PROSPECTIVE JUROR NO. 42: It was all -- I did my community service and I'm just on probation for a year.

THE COURT: You got ACD.

PROSPECTIVE JUROR NO. 42: No.

THE COURT: Adjournment in contemplation of dismissal?

PROSPECTIVE JUROR NO. 42: I think that is what it, yes.

THE COURT: Which court?

PROSPECTIVE JUROR NO. 42: Criminal Court Staten Island.

THE COURT: Where you had to -- it's a year and then the case gets dismissed as long as you stay out of trouble for a year?

PROSPECTIVE JUROR NO. 42: Exactly.

THE COURT: All right. Anything about that that would affect your ability to be fair?

PROSPECTIVE JUROR NO. 42: I don't see why, no.

THE COURT: Any other questions, counsel?

All right. Sir, why don't you stay in the hallway for a minute with Ilene.

(Prospective Juror No. 42 exited)

THE COURT: 44.

Prospective Juror No. 44 enters courtroom)

THE COURT: Hi, good afternoon. Have a seat over here. Nice to see you.

PROSPECTIVE JUROR NO. 44: Thank you.

THE COURT: You are juror number 44, right?

PROSPECTIVE JUROR: Yes.

THE COURT: Great. What is your master's degree in?

PROSPECTIVE JUROR: Elementary education, minor in math.

THE COURT: Math. Could you use you around my house. Your questionnaire indicated yes to the question whether you or a family member or close friend have been a witness or victim of a crime -- witness to a victim of a crime.

PROSPECTIVE JUROR NO. 44: A family member. A gun was pointed at his head. I was not there at the time.

THE COURT: Long time ago or recently?

PROSPECTIVE JUROR NO. 44: No. Long time ago. It is my father-in-law.

THE COURT: And anything about that or the way it was handled or not handled that would affect your ability to be fair in this case?

PROSPECTIVE JUROR NO. 44: I don't know because in all honesty I hadn't thought about the event until I read it on the questionnaire, so I would hope it wouldn't affect --

THE COURT: Okay. How many years ago was your father-in-law accosted like that?

PROSPECTIVE JUROR NO. 44: Over 25.

THE COURT: And you think it might influence your thinking in this case?

PROSPECTIVE JUROR NO. 44: No, but there is something that could influence me in the case. My husband's working in World Trade Center at the time of the bombings and he couldn't go back to work for a while because the building was not deemed safe and that was something that was extremely traumatic to both us. To this day he will not go down to the World Trade Center.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 44: So that could color my judgment.

THE COURT: All right. I'll excuse you. Thank you.

PROSPECTIVE JUROR NO. 44: Thank you.

THE COURT: Have a good day.

PROSPECTIVE JUROR NO 44: : Thank you. You too.

(Prospective Juror No. 44 exited).

(Prospective Juror No. 46 entered).

THE COURT: Good afternoon. Have a seat. Thank you, for your patience waiting to see us. You are Juror Number 46, right?

PROSPECTIVE JUROR NO. 46: Yes.

THE COURT: Nice to meet you. I have a few follow-up questions for all of the jurors, for that matter based on their questionnaires. I see from yours that you have a family member or close friend who worked for, or applied for a law enforcement position.

PROSPECTIVE JUROR 46: Yes.

THE COURT: What was that? How come you answered yes to that?

PROSPECTIVE JUROR NO. 46: Because I have a family member.

THE COURT: Who is that?

PROSPECTIVE JUROR NO. 46: Cousin.

THE COURT: Works in the police department?

PROSPECTIVE JUROR NO. 46: Yes.

THE COURT: Oh, New York City Police Department?

PROSPECTIVE JUROR NO. 46: Yes.

THE COURT: Keep your voice up.

PROSPECTIVE JUROR NO. 46: Staten Island.

THE COURT: And is this cousin in uniform, uniformed officer?

PROSPECTIVE JUROR NO. 46: Umm-Humm.

THE COURT: Yes?

PROSPECTIVE JUROR NO. 46: Yes.

THE COURT: Is it just patrol work or do you know what kind of work this cousin of yours does?

PROSPECTIVE JUROR NO. 46: He was a sergeant.

THE COURT: Okay. So he's been in the department for a little while?

PROSPECTIVE JUROR NO. 46: Yes.

THE COURT: Anything about that relationship that would affect your ability to be fair in this case?

PROSPECTIVE JUROR NO. 46: No.

THE COURT: Okay. You know, you wouldn't feel awkward -- if you concluded the government didn't prove its case beyond a reasonable doubt here, you'd be required to vote not guilty, do you understand that?

PROSPECTIVE JUROR NO. 46: Yes.

THE COURT: You could follow that instruction?

PROSPECTIVE JUROR NO. 46: Yes.

THE COURT: You wouldn't feel awkward seeing your cousin after voting not guilty, I take it?

PROSPECTIVE JUROR NO. 46: No.

THE COURT: You or a family member or close friend have been a victim or a witness with respect to a crime, I take it?

PROSPECTIVE JUROR NO. 46: Yes.

THE COURT: Can you tell me a little bit about that, please.

PROSPECTIVE JUROR NO. 46: We had personal property stolen from us and --

THE COURT: Break in your home or something?

PROSPECTIVE JUROR NO. 46: Break in the home and vehicle.

THE COURT: Okay. When was the most recent of these episodes?

PROSPECTIVE JUROR NO. 46: One was, approximately -- I want to say about 32 years ago, and then another one, the break-in of our home was about -- about 20 years ago.

THE COURT: Okay. The police -- you filed a police report, I take it?

PROSPECTIVE JUROR NO. 46: On one of them.

THE COURT: On the break-in for the home?

Okay. Anything about that? It's a long time ago but still, anything about that, the way it was handled or not handled that would affect your ability to be fair in this case?

PROSPECTIVE JUROR NO. 46: It wouldn't affect my ability to be fair.

THE COURT: And you also checked yes, it might be the same situation, it might be another as well, but you checked yes to the question whether a family member, close friend had been stop, questioned, investigated, arrested by a law enforcement officer?

PROSPECTIVE JUROR NO. 46: Yes.

THE COURT: What's caused you to answer yes to that?

PROSPECTIVE JUROR NO. 46: That -- that situation happened, approximately, eight and a half years ago and I choose not to talk about it.

THE COURT: You want to come up here to the side-bar with just the lawyers.

PROSPECTIVE JUROR NO. 46: It is difficult to talk about.

THE COURT: It is. Come up here to the side-bar please.

(The following took place at side bar).

THE COURT: I'm sorry. I am inflicting a little pain on you, I apologize, can you tell me in broad strokes what this is about?

PROSPECTIVE JUROR NO. 46: My son --

THE COURT: Did your son get in trouble?

PROSPECTIVE JUROR NO. 46: Yes.

THE COURT: Okay. It is obviously an open wound. Is it the sort of thing that would affect your ability to be fair in this case?

PROSPECTIVE JUROR NO. 46: Probably.

THE COURT: Okay. I will excuse you. I will excuse from this case. Okay. Sorry to visit this pain on you. All right. Ilene will take you out. All right. Are you okay?

PROSPECTIVE JUROR NO. 46: Yes.

(Prospective Juror No. 46 exited courtroom)

(Open court)

The COURT: Juror 46 is excused.

MR. ARIAIL: Do you want us recording lack of objection here?

THE COURT: No. Thank you.

(Prospective Juror No. 47 entered courtroom).

THE COURT: Good afternoon. You are juror number 47.

PROSPECTIVE JUROR NO. 47: Yes.

THE COURT: Pleased to meet you. I've got a couple of couple of follow-up questions based on the questionnaire you filled out yesterday. One of the answers you gave indicates that you have a friend or family member in law enforcement or who applied for a law enforcement position.

PROSPECTIVE JUROR NO. 47: Yes. My mom used to work the police department like a clerical secretary and stuff.

THE COURT: I take it she doesn't any longer?

PROSPECTIVE JUROR NO. 47: No.

THE COURT: Anything about that that would affect your ability to be fair?

PROSPECTIVE JUROR NO. 47: No.

THE COURT: I was just asking the lawyers if they could decipher -- your handwriting is pretty good actually, but you say you got your news from Facebook, the New York Times and?

PROSPECTIVE JUROR: Chief.

THE COURT: Chief. I have a feeling I'm just revealing my own ignorance here. What is Chief?

PROSPECTIVE JUROR NO. 47: The Chief newspaper. My dad normally brings home the newspaper that D.C. 37 normally gives.

THE COURT: Is that the D.C. 37 paper?

PROSPECTIVE JUROR NO. 47: Yes.

THE COURT: Got it. Okay. You're a junior in college?

PROSPECTIVE JUROR NO. 47: Yes.

THE COURT: What are you studying?

PROSPECTIVE JUROR NO. 47: Health Service Administration?

THE COURT: And you think you can be fair in this case?

PROSPECTIVE JUROR NO. 47: I think so.

THE COURT: You know, in every case what happens is jurors are asked to listen to the evidence fairly impartially with an open mind, to follow my instructions on the law, and to render verdicts in the case, guilty or not guilty, based solely on the evidence in the case following my instructions, do you think you can do that?

PROSPECTIVE JUROR NO. 47: I think so.

THE COURT: You can be fair to both sides?

PROSPECTIVE JUROR NO. 47: Right. I think so. I am not too aware of the case or like, the political aspect, I guess.

THE COURT: All right. Well, there's no -- politics occurs out there. Here in the courtroom everything is only about particular charges and here I think there are four counts, right -- four counts in the case -- and each charge is divided up into what we call elements, ingredient of a criminal charge, and as you know from the questionnaire and you probably know this just from TV, you know defendants are presumed innocent. They have to be presumed innocent by the jury throughout the trial, even throughout the deliberations, and that presumption only goes away if the government has proved to the satisfaction of the individual juror -- this could be you if you are a juror in this case -- has proved beyond a reasonable doubt all of the ingredients of a particular crime. Only if a juror is satisfied the government has met that heavy burden can the juror find the defendant guilty of that charge, and if the government fails to prove even one of those elements beyond a reasonable doubt, the juror is obligated to vote not guilty. I say all that in response to your question because, yes, this is a case about allegations of terrorism, and that's a big topic in our community, our city, and has been for quite some time, and there are on that topic political dimensions to it, political facet to it, but all of that is outside those doors. Once we are in here the only question is whether the government can prove beyond a reasonable doubt that particular crime against the particular person charged. That's all we care about in here, separate and apart from any political consequences. Do you understand what I'm saying?

PROSPECTIVE JUROR NO. 47: Yes.

THE COURT: So even though, you know, we all agree terrorism is terrible, right, no one disagrees with that, it remains true that in here all that matters is whether the government can prove its charge, and if it fails to do so, the jury has to find the defendant not guilty, even if it believes that he favors terrorism. He is not charged with favoring terrorism. He's charged with conspiring to provide material support to a terrorist group. There are particular ingredients to that.

So sometimes jurors are called upon to -- their duty requires them to render a verdict that is unpopular -- might require them to find someone not guilty who actually believes -- I don't know what the evidence here is -- I don't know any more than you do about the evidence in this particular case, but unless the government can prove the crime that's charged beyond a reasonable doubt, the defendant must be found not guilty; do you understand that?

PROSPECTIVE JUROR NO. 47: Yes.

THE COURT: And more importantly, do you think you can follow that instruction?

PROSPECTIVE JUROR NO. 47: Yes, I can.

THE COURT: Okay. Confident?

PROSPECTIVE JUROR NO. 47: Eighty percent.

THE COURT: Yeah. Certainly do the best you can, I take it?

PROSPECTIVE JUROR NO. 47: Yes. Right.

THE COURT: All right. Thank you. You can go back to the jury room. Ilene will take you back to the jury room.

(Prospective Juror Number 47 exited).

(Prospective Juror No. 48 enters courtroom)

THE COURT: Hi, good afternoon. I'm up here -- over here?

PROSPECTIVE JUROR NO. 48: Oh.

THE COURT: Everybody has trouble finding me.

PROSPECTIVE JUROR no. 48: I'm all over.

THE COURT: Thanks for your patience. You're Juror Number 48, I hope?

PROSPECTIVE JUROR NO. 48: Yes, I am.

THE COURT: Then you are in the right place. Pleased to meet you.

PROSPECTIVE JUROR NO. 48: Same here.

THE COURT: I have a couple of questions just to follow up on the answers you gave in yesterday's questionnaire. You've been a juror before?

PROSPECTIVE JUROR NO. 48: Not in a federal -- on the other side.

THE COURT: State court?

PROSPECTIVE JUROR NO. 48: Yes.

THE COURT: Did you get picked to sit on a case?

PROSPECTIVE JUROR N. 48: The first time I did, yes, but the other two times I was sent home.

THE COURT: You sat around and got sent home?

PROSPECTIVE JUROR NO. 48: Yes.

THE COURT: When you got picked on a case what kind of case was it?

PROSPECTIVE JUROR NO. 48: It was an accident case.

THE COURT: Civil case?

PROSPECTIVE JUROR NO. 48: Civil.

THE COURT: Someone looking for damages. Okay. How much education do you? Did you go to high school?

PROSPECTIVE JUROR NO. 48: Yes, but I didn't finish high school.

THE COURT: How far did you get in high school?

PROSPECTIVE JUROR NO. 48: It wasn't here. It was back home in Jamaica. It was, like, maybe, 12th grade.

THE COURT: Okay. And I take it you are a naturalized citizen?

PROSPECTIVE JUROR NO. 48: Yes, I am.

THE COURT: How long have you been living in the United States?

PROSPECTIVE JUROR NO. 48: About 30 years.

THE COURT: Any reason you can't be fair in this case?

PROSPECTIVE JUROR NO. 48: No.

THE COURT: You can listen to the evidence fairly and impartially and with an open mind and base your verdict solely on the evidence?

PROSPECTIVE JUROR NO. 48: Yes, I could.

THE COURT: Counsel, did I miss any questions to follow up.

MR. ARIAIL: No.

THE COURT: I take that as a no. Thank you.

Allison will take you back to the jury room.

PROSPECTIVE JUROR NO. 48: Okay. Thank you.

(Prospective Juror Number 48 exited).

(Prospective Juror No. 49 enters)

THE COURT: Good morning -- good afternoon already. Thanks for your patience. Appreciate it.

Are you Juror Number 49?

PROSPECTIVE JUROR NO. 49: Correct.

THE COURT: Pleased to meet you.

PROSPECTIVE JUROR no. 49: Pleased to meet you.

THE COURT: I just have a couple of follow-p questions for you based on yesterday's questionnaire. You have a family member or friend who is in law enforcement or applied for a law enforcement position?

PROSPECTIVE JUROR NO. 49: Yes.

THE COURT: And who is that?

PROSPECTIVE JUROR NO. 49: My cousin. He is a U.S. Marshal.

THE COURT: Oh, here?

PROSPECTIVE JUROR NO. 49: Yes, in New York.

THE COURT: Do you happen to know if he works in this building or across the river in Manhattan?

PROSPECTIVE JUROR NO. 49: I'm not sure.

THE COURT: Anything about that that relationship that would affect your ability to be fair?

PROSPECTIVE JUROR NO. 49: No.

THE COURT: There's a list -- there was a list of people in the questionnaire and the question was whether you knew him and you left it blank. So let me point out to you the prosecutors are, as you are looking at them, from right to left Ali Kazemi, Shreve Ariail, Seth DuCharme, and then -- I'm sorry -- one more time?

AGENT RODDY: Stephanie Roddy.

THE COURT: Stephanie Roddy. That's the last time I will fail to get that name right.

Ms. Roddy, I'm sorry.

Do you know any of those folks, sir?

PROSPECTIVE JUROR NO. 49: No.

THE COURT: David Stern, Betim Kaziu, Joshua Dratel, and Henry Steinglass, do you know any of those folks?

PROSPECTIVE JUROR NO. 49: No.

THE COURT: Did you read any newspapers or --

PROSPECTIVE JUROR NO. 49: Not really. I barely have any time. I just go from school -- I had school and then I went to work and I just hang --

THE COURT: You're busy?

PROSPECTIVE JUROR NO. 49: Yes.

THE COURT: Are you still in school?

PROSPECTIVE JUROR NO. 49: No, I start back in September.

THE COURT: And you are a cashier in the food market for the summer?

PROSPECTIVE JUROR NO. 49: Correct. That is my main job that I've been working for the past two and a half years.

THE COURT: You are doing that while you are in school?

PROSPECTIVE JUROR NO. 49: Yes.

THE COURT: Nassau Community College?

PROSPECTIVE JUROR NO. 49: Yes.

THE COURT: What are you studying?

PROSPECTIVE JUROR NO. 49: Liberal arts for now.

THE COURT: Good.

The government's going to, perhaps, call witnesses who have bargains with the government where they plead guilty to a crime, then before they get sentenced they testify for the government in the hope that they'll get a little bit of a break on the sentence in their case, maybe get some charges dismissed, but they will do better in their own case if they help the government in this case. Do you understand what I'm talking about?

PROSPECTIVE JUROR NO. 49: Sort of like --

THE COURT: I have a question. I'll get to it in a second.

PROSPECTIVE JUROR NO. 49: Yeah.

THE COURT: These witnesses are kind of special because they're testifying in exchange for a benefit which means jurors which are in the business of deciding whom to believe and whom not to believe have to be very careful. They have a motive to help the government, and that motive might cause them to embellish their testimony, maybe even make up some testimony, help the government make a case, so that they'll get a break in end their own case; do you understand what I'm saying?

PROSPECTIVE JUROR NO. 49: Yes.

THE COURT: And that's a reality and we always tell jurors you have to examine the testimony of those cooperating witnesses because sometimes they are called accomplice witnesses with great care. On the other side of the coin, the government is entitled to strike those bargains. Perfectly lawful for them to put those witnesses on the witness stand, ask juries to believe them and jurors, if they conclude that that witness' testimony was truthful, can rely on that testimony. Can you follow those instructions?

PROSPECTIVE JUROR NO. 49: Yes.

THE COURT: Do you understand what I told you?

PROSPECTIVE JUROR: Yes.

THE COURT: I mention it because this was in your --

what you left blank.

PROSPECTIVE JUROR NO. 49: I was not sure about one of the questions on there. That is why I left one of them blank, I didn't answer anything.

THE COURT: That was it. Okay. So you can follow my instructions to you on that subject?

PROSPECTIVE JUROR NO. 49: Right.

THE COURT: All right. Any reason you can't be fair in this case, sir?

PROSPECTIVE JUROR NO. 49: No.

THE COURT: All right. Ilene is going to take you back to the jury room. Thank you, very much.

(Prospective Juror No. 49 exited)

(Prospective Juror No. 51 enters courtroom)

THE COURT: Hi, good afternoon.

PROSPECTIVE JUROR NO. 51: Good afternoon.

THE COURT: Nice to meet you.

PROSPECTIVE JUROR NO. 51, you too.

THE COURT: You're Juror Number 51?

PROSPECTIVE JUROR NO. 51: Yes.

THE COURT: I have a few follow-up questions for you based on your questionnaire from yesterday. Have you been a juror before?

PROSPECTIVE JUROR NO. 51: Yes.

THE COURT: More than once?

PROSPECTIVE JUROR NO. 51: Three times.
THE COURT: A professional juror.
PROSPECTIVE JUROR NO. 51: Yes.
THE COURT: Were they criminal cases, civil or some of each?
PROSPECTIVE JUROR NO. 51: They were three criminal cases.
THE COURT: Federal court, state court?
PROSPECTIVE JUROR NO. 51: State.
THE COURT: And we don't know want to know what the verdicts were but in each of them was the jury asked to deliberate and reach a verdict?
PROSPECTIVE JUROR NO. 51: Yes.
THE COURT: Was a verdict reached in each case?
PROSPECTIVE JUROR NO. 51: Yes, it was.
THE COURT: All right. Any reason you can't be fair in this case, sir?
PROSPECTIVE JUROR NO. 51: No.
THE COURT: You can listen to the evidence fairly and with an open mind and base your verdict solely on the evidence?
PROSPECTIVE JUROR NO. 51: Yes.
THE COURT: Great. Allison is going to take you back to the jury room. Thank you, very much.
(Prospective Juror No. 51 exited).

(Prospective Juror No. 53 entered courtroom)

THE COURT: Hi, good afternoon.

PROSPECTIVE JUROR NO. 53: Good afternoon.

THE COURT: Are you juror number 53?

PROSPECTIVE JUROR NO. 53: Yes.

THE COURT: Pleased to meet you.

PROSPECTIVE JUROR NO. 53: Thank you.

THE COURT: I just have a couple of follow-up questions for you. You indicated on the questionnaire you filled out yesterday that someone -- you or a family member or a close friend was questioned or investigated or arrested by a law enforcement agency, do you recall that question?

PROSPECTIVE JUROR NO. 53: Yes.

THE COURT: And can you tell us why you answered yes to that one?

PROSPECTIVE JUROR No 53: What was the question again?

THE COURT: The question was have you, a family member or close friend ever been stopped, questioned investigated or arrested or prosecuted?

PROSPECTIVE JUROR NO. 53: It was arrested.

THE COURT: A friend?

PROSPECTIVE JUROR NO. 53: My husband.

THE COURT: Long time ago?

PROSPECTIVE JUROR NO. 53: Yes, I think. I wasn't here, so I don't know how long ago.

THE COURT: It was before you came?

PROSPECTIVE JUROR NO. 53: Right.

THE COURT: Am I recalling correctly, you came here from Guyana?

PROSPECTIVE JUROR NO. 53: Yes.

THE COURT: How long have you been here?

PROSPECTIVE JUROR NO. 53: I have been here, like, 20 years.

THE COURT: So it's a long time ago?

PROSPECTIVE JUROR NO. 53: Yes.

THE COURT: And anything about that that would affect your ability to be fair in this case?

PROSPECTIVE JUROR NO. 53: I don't really know.

THE COURT: Well, whatever happened with the case?

PROSPECTIVE JUROR: He was locked up for six months.

THE COURT: Okay. And he got out before you came here from Guyana?

PROSPECTIVE JUROR NO. 53: No, when I was here he was still there.

THE COURT: He was still in?

PROSPECTIVE JUROR NO. 53: Yes.

THE COURT: Well, do you have bad feelings about the police or something because of that case?

PROSPECTIVE JUROR NO. 53: Not really.

THE COURT: Well, the key question is whether in this case if you were picked to sit on the jury -- the critical question is whether you'd be able to vote guilty or not guilty based solely on the evidence in the case or the lack of evidence, and not be affected by, you know, some feelings because your husband got prosecuted 20 years ago. So can you put that case aside and base your verdict solely on the evidence in this case, do you think you can do that?

PROSPECTIVE JUROR NO. 53: Yes.

THE COURT: Okay. Is there any reason in your opinion why you couldn't be fair in this case?

PROSPECTIVE JUROR NO. 53: No.

THE COURT: Okay. You work as a cashier?

PROSPECTIVE JUROR NO. 53: Yes.

THE COURT: You've been doing that, looks like, ever since you got here?

PROSPECTIVE JUROR NO. 53: Yes.

THE COURT: Good for you.

The defendant in a criminal case, including the defendant in this case, is presumed innocent. You know, the jurors have to begin the trial with the presumption that the defendant is innocent. He doesn't have to prove his innocence. He is presumed innocent. The burden is on the government to prove him guilty beyond a reasonable doubt. Can you follow that instruction?

PROSPECTIVE JUROR NO. 53: Yes.

THE COURT: You can give the defendant the benefit of the presumption of innocence?

PROSPECTIVE JUROR NO. 53: Maybe, yes.

THE COURT: You have some doubt about that?

PROSPECTIVE JUROR NO. 53: I don't really know.

THE COURT: I am sensing a little concern coming from you. That is why I keep asking you questions. Are you concerned about sitting on this case?

PROSPECTIVE JUROR NO. 53: Not really.

THE COURT: A lit bit.

PROSPECTIVE JUROR NO. 53: No.

THE COURT: Can you be fair?

PROSPECTIVE JUROR NO. 53: Yes.

THE COURT: Okay. Are you confident of that?

PROSPECTIVE JUROR NO. 53: Yes, the reason why is because I am the only one who works in the house right now because my husband is not working, so when I come here I don't get paid at my job.

THE COURT: Well, you should have said that. I'm glad you mentioned that. You don't get paid when your are on jury duty?

PROSPECTIVE JUROR NO. 53: They don't pay me at my job when I take my leave.

THE COURT: Do you get vacation time?

PROSPECTIVE JUROR NO. 53: Yes, we get vacation time.
THE COURT: Well, are you going to have trouble making ends meet if you are here for two weeks?
PROSPECTIVE JUROR NO. 53: Yes, I'm the only one working right now.
THE COURT: Okay. So how many people live in your home?
PROSPECTIVE JUROR NO. 53: Two.
THE COURT: You and your husband?
PROSPECTIVE JUROR NO. 53: Yes.
THE COURT: You are going to have difficulty paying the bills?
PROSPECTIVE JUROR NO. 53: Yes.
THE COURT: All right. I'm glad you finally said something. I'll excuse you.
PROSPECTIVE JUROR: Okay. Thank you, very much.
(Prospective Juror Number 53 exited courtroom)
THE COURT: Hi, good afternoon. Up here. Over here to your right.
PROSPECTIVE JUROR NO. 54: Oh, thank you.
THE COURT: Everybody has that issue coming into the courtroom. You are juror number 54. Welcome.
PROSPECTIVE JUROR NO. 54: Thank you.
THE COURT: Nice the meet you. I have a couple of

follow-up questions for you. Your wife is a lawyer?

PROSPECTIVE JUROR NO. 54: Yes.

THE COURT: What kind of law does she practice?

PROSPECTIVE JUROR NO. 54: Personal injury.

THE COURT: The jurors in this case have to take the law from me, not from anyone else, not even their wives.

PROSPECTIVE JUROR NO. 54: That is fine.

THE COURT: You can follow that instruction?

PROSPECTIVE JUROR NO. 54: Yes, absolutely.

THE COURT: Can you be fair in this case, sir?

PROSPECTIVE JUROR NO. 54: Yes, I can.

THE COURT: The defendant has to be presumed innocent by the jurors, do you think you can do that?

PROSPECTIVE JUROR NO. 54: Yes.

THE COURT: And unless the government proves each of the elements of the particular crime the jury's considering beyond a reasonable doubt, the jury must find the defendant not guilty; do you understand that?

PROSPECTIVE JUROR NO. 54: Yes.

THE COURT: You can follow that instruction?

PROSPECTIVE JUROR NO. 54: Yes, I can.

THE COURT: How much college did you have?

PROSPECTIVE JUROR NO. 54: Just one semester.

THE COURT: All right. Thank you, sir. Allison will take you back to the jury room.

(Prospective Juror No. 54 exited)

(Prospective Juror No. 55 entered courtroom)

THE COURT: Hi, how are you doing?

PROSPECTIVE JUROR NO. 55: Good.

THE COURT: Thank you, for your patience. You are Juror Number 55, I hope.

PROSPECTIVE JUROR NO. 55: Correct.

THE COURT: Good. Welcome to the courtroom. I have a few follow-up questions for you based on yesterday's questionnaire. You wrote in response to the question: How far did you go in school, you said under-grad. Did you finish college?

PROSPECTIVE JUROR NO. 55: Yes.

THE COURT: I said you were born in Hong Kong. Did you go to college here in the United States?

PROSPECTIVE JUROR NO. 55: Yes.

THE COURT: How long have you been living here? Long time.

PROSPECTIVE JUROR NO. 55: Thirty something years. I came here when I was seven.

THE COURT: You are 42 now?

PROSPECTIVE JUROR NO. 55: Thank you.

THE COURT: You are welcome. You came here when you were seven?

PROSPECTIVE JUROR NO. 55: Yes.

THE COURT: We will leave it up to them to do the subtraction. Any reason you can't be fair in this case, sir?

PROSPECTIVE JUROR NO. 55: No.

THE COURT: When you get your news on TV, any particular TV show you like to get your news from?

PROSPECTIVE JUROR NO. 55: No.

THE COURT: The defendant in a criminal case never has to testify. Has the absolute right to remain silent. You he can choose to testify if he wants to, it's his call, but since he doesn't have any burden of proof, the burden is only with the government, the defendant is perfectly entitled to sit there and remain silent, and here's the really important part. He's entitled to a jury that if he decides not to testify won't hold it against him, won't draw an inference against him because he didn't take the witness stand. He's got a right not to take the witness stand. Can you follow that instruction, sir?

PROSPECTIVE JUROR NO. 55: Yes.

THE COURT: Okay. I'm going to ask Alliston to take you back to the jury room. Thank you, very much. Oh I'm sorry.

(Prospective juror number 55 exited)

Fifty-nine is a no-show. The jury clerk has been trying to find her, but there's no response. So I need to get back to you on both 31 and 59. Thirty-one reported she was sick.

(Prospective Juror Number 56 enters courtroom).

THE COURT: Hi, how are you?

PROSPECTIVE JUROR NO. 56: Fine.

THE COURT: Sir, are you number 56, right.

PROSPECTIVE JUROR NO. 56: Yes.

THE COURT: Good. Just have a couple of follow-up questions for you. You mentioned on the questionnaire that you or a family member or close friend worked for or applied for a job in law enforcement?

PROSPECTIVE JUROR NO. 56: Yes.

THE COURT: What was it that caused you to say yes to that?

PROSPECTIVE JUROR NO. 56: I have relatives, cousins, that are police officers.

THE COURT: Roughly, how many?

PROSPECTIVE JUROR NO. 56: Two.

THE COURT: Currently on the job or out of it?

PROSPECTIVE JUROR NO. 56: Retired.

THE COURT: Anything about those relationships, sir, that would affect your ability to be fair in this case?

PROSPECTIVE JUROR NO. 56: No, sir.

THE COURT: You checked yes to the question whether you or a family member or close friend had been questioned or investigated or arrested and the like. What's that all about?

Can you remember the question?

PROSPECTIVE JUROR NO. 56: Not really. I don't remember it.

THE COURT: Have you, a family member or a close friend ever been stopped, questioned, investigated or arrested or prosecuted by any law enforcement officer or agency?

PROSPECTIVE JUROR NO. 56: My stepson. He's been arrested.

THE COURT: Okay. Does he have a pending case?

PROSPECTIVE JUROR NO. 56: No.

THE COURT: Again, anything about that, the fact that he got arrested or the way it was handled that would cause you to -- that would affect your ability to be fair in this case?

PROSPECTIVE JUROR NO. 56: No, sir.

THE COURT: You get your news from radio shows?

PROSPECTIVE JUROR NO. 56: Yes.

THE COURT: Can you tell us a little more precisely which shows you listen to?

PROSPECTIVE JUROR NO. 56: I am a truck driver. I have the radio on quite often. I do listen to Bloomberg News, the stock market. I listen to that everyday.

THE COURT: Okay. There's a question about whether you know these folks to which you didn't respond, so let me just point them out to you. From right to left, the table closest to you, your right to left for the prosecutors:

Proceeds Mr. Kazemi, Mr. Ariail, Mr. DuCharme, and Ms. Roddy. Do you know those folks?

PROSPECTIVE JUROR NO. 56: No.

THE COURT: And then over here are David Stern, his client Betim Kaziu, Mr. Kaziu's other lawyers, Josh Dratel, and Henry Steinglass, do you know those folks?

PROSPECTIVE JUROR NO. 56: No, sir.

THE COURT: You can afford -- you can give this defendant the presumption of innocence he's entitled to?

PROSPECTIVE JUROR NO. 56: Yes.

THE COURT: Okay. Thank you, sir. Allison is going to take you back to the jury room. Make sure nobody discusses the case in there. All right?

PROSPECTIVE JUROR NO. 56: Yeah.

THE COURT: Thanks.

(Prospective Juror No. 56 exited)

THE COURT: 57 is next.

MR. ARIAIL: I want to clarify, Special Agent Roddy is with the FBI, just so Your Honor's aware. She's a case agent.

THE COURT: Sorry. By the end of trial I I'll get that right.

(PROSPECTIVE Juror No. 57 is now present)

THE COURT: Good afternoon, you can swing that around so you are not facing the wall. Thanks for your patience.

Welcome to the courtroom. You are you juror number 57.

PROSPECTIVE JUROR: Yes.

THE COURT: Pleased to meet you. I'm just doing a couple of follow-up questions with each of the jurors about their answer to the questionnaire that you filled out yesterday. You responded in response to one of these questions about an accomplice witnesses who would testify -- people who have a cooperation agreement with the government, and they testify for the government in the hope that they might get leniency in their own case.

Do you recall what I'm talking about?

PROSPECTIVE JUROR 57: Yes.

THE COURT: You wrote if someone has something to gain for saying something I would feel I can't trust it to be credible and I want to follow up with that a little, and tell you what I would tell the jury. I'll elaborate a little bit on the question and the reason I mention it to you is because when I'm done I'm going to ask you whether you think you could follow these instructions, right, recognizing you've got a concern about the credibility of these witnesses. That concern is well founded because any witness who is going to get a benefit for testifying has a built in motive to please the government, help the government make its case. So there's a motive on the part of someone if someone has pled guilty to a crime, hasn't been sentenced yesterday, and is testifying for the government against someone else in the crime, there's a built in motive to maybe embellish a little bit, or maybe even make up evidence to please the government, so that they can get a lesser sentence.

You with me so far?

PROSPECTIVE JUROR 57: Yes.

THE COURT: And to the extent that your comment suggests that, I think you are exactly right. On the other side of the coin, that doesn't put these witnesses out of bounds in our legal system. The law allows the government to enter into agreements with criminals under which the criminal will testify against someone else, and the government will then say to the judge -- these benefits take various forms, but they all essentially help the criminal/witness with his own criminal case; understood? Do you understand me?

PROSPECTIVE JUROR 57: Yes.

THE COURT: So the government's permitted to call such witnesses and its permitted to say to a jury you should believe them, knowing full well the jury's going to be especially careful with their testimony, but they're entitled to a jury that will not disregard that testimony. No matter, what they are entitled to jurors with an open mind who, even though sceptical about the credibility of such a witness, will listen to it, and if the juror believes it, rely on it; do you understand?

PROSPECTIVE JUROR 57: Yes.

THE COURT: Which kind of juror are you? Would you never rely on such a witness under any circumstances or would you determine if they're a credible and then rely on them if they are; do you understand my question?

PROSPECTIVE JUROR 57: Yes.

THE COURT: What's the answer to that?

PROSPECTIVE JUROR 57: I wouldn't say never.

THE COURT: So you'd listen to the testimony and if it's worthy of your belief you'd credit the testimony and rely on it?

PROSPECTIVE JUROR 57: Got to be real credible.

THE COURT: Okay. You gave a long and thoughtful answer to the last question on the questionnaire about whether there's anything that might affect your ability to be impartial in this case even slightly, and I wanted to follow up with you on that. You mentioned fear of terrorists, some real, some imagined. Expand a little bit on your own thoughts on the subject., how if at all, would these concerns that you expressed in the questionnaire affect your deliberation as a juror?

PROSPECTIVE JUROR NO. 57: Well, as I put in the piece of paper that in times when a nation is concerned about a threat to the nation, there's a lot of time, money, energy, fear, hysteria put into making sure that the nation is safe and so, in an attempt to keep people safe, I think, some people go too far in this, in disregarding the rights of other people.

(Continued on next page)

THE COURT: I see.

You think maybe sometimes civil liberties get too much sacrificed for security?

THE PROSPECTIVE JUROR: It could, individual.

THE COURT: All right. Now, in here all we care about is one particular defendant who is facing four particular charges and there is kind of a comforting simplicity about what goes on in the courtroom. Because the only issue is whether the government can prove the crimes charged beyond a reasonable doubt against this defendant.

If it can, and the jury is satisfied that it has done so, then the jury can find the defendant guilty. If it can't, if it falls short even with respect to one element, one ingredient of the crime the jury is considering, the jury must find the defendant not guilty. Even if the jury thinks the defendant probably committed the crime. You must find him not guilty unless the jury is convinced beyond a reasonable doubt.

Can you follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Can you be fair in this case?

THE PROSPECTIVE JUROR: I can be fair.

But I fear that if people disagree as jurors that you feel pressured to, you know, take your position because people will say look, I want to get out of here to get this already. So I get scared that people would pressure me into like whatever, whatever I feel, like I don't know that I wouldn't get pressured by people, by the jurors.

THE COURT: Are you sure you haven't been a juror before?

THE PROSPECTIVE JUROR: Never.

THE COURT: Listen, I'll tell you now what I'll tell the jurors then, which is jury deliberations, as the name suggests, is a deliberative process. Jurors are expected to share each other's views, keep an open mind. They are encouraged to change their opinions from time to time if they are convinced they are wrong. On the other hand, they are admonished not to give up a conscientious belief as to what the truth is and what the weight and the effect of the evidence is just to reach a verdict.

Those are instructions that, as you can probably tell, I've given so frequently they kind of roll off my tongue.

So it is a little of both. You are expected to listen, expected to keep an open mind, expected even to change your mind. But not just to reach a verdict. Only if you are convinced your opinions are wrong.

Jury verdicts must be unanimous.

So are your concerns about this jury deliberation process such that you think it might affect your ability to be a good juror?

THE PROSPECTIVE JUROR: Well, I am not good under pressure so if I feel people are pressuring me, I -- I would be really uncomfortable.

THE COURT: Do you?

I think you might underestimate yourself.

THE PROSPECTIVE JUROR: I hope I am.

THE COURT: Can you follow my instruction not to change your vote simply to arrive at a verdict? That's the instruction I will give every juror. Would you be able to follow that instruction?

THE PROSPECTIVE JUROR: If we felt pressured, would I we have support?

THE COURT: Sorry?

THE PROSPECTIVE JUROR: If I felt pressured, would I have support? Would I be able to say I really feel like people are pressuring me?

THE COURT: Yes. You would have the support that inheres in the fact that jury verdicts must be unanimous. If you decided that a -- if eleven jurors wanted to vote one way and you wanted to vote the other, you would be prohibited by my instructions from changing your opinion simply to arrive at a verdict. You would have that support.

Is that support enough for you?

THE PROSPECTIVE JUROR: You wouldn't be in the room, would you?

THE COURT: No, I wouldn't.

Could you follow my instruction not to change your verdict just to reach a verdict? Not to change your vote, just to reach a verdict?

THE PROSPECTIVE JUROR: I would like to say that I wouldn't be swayed. I would like to say because I wouldn't want it to be done to me. So I would like to say that I wouldn't be swayed.

THE COURT: Let's break for lunch.

Miriam, would you take juror number 57 back to the jury room, please?

Thank you.

(Juror leaves courtroom.)

THE COURT: I say we excuse her. Does anybody want to be heard?

MR. ARIAIL: No objection from the government.

MR. STERN: I do. I say we not excuse her. She says she can't stand up to people. She stands up to you. You know, she says to you, I don't --

THE COURT: I am not going to excuse her over objection.

MR. STERN: Good.

MR. ARIAIL: Your Honor, if we may? I apologize. I think defense counsel is missing one page of the questionnaire from that juror. The government is actually missing the entire questionnaire.

THE COURT: I already gave them my page.

MR. STERN: We will give you your page back.

THE COURT: See you at 2:00 o'clock.

MR. ARIAIL: Thank you, Your Honor.

THE COURT: Let's do a little audit, please, of where we are. Make sure we are all on the same page.

Here are the jurors I think are in our pool.

I don't think we need the defendant for this. Do you agree?

MR. STERN: No, we don't. This is just ministerial.

THE COURT: I want to make sure I am putting my questionnaires in the right pile. Okay? If I put them in the correct pile, here are our prospective jurors:

One, 12, 14, 17, 20, 22, 23, 24, 25, 26, 29, 30, 66, 32, 36, 39, 41, 42, 47, 48, 49, 51, 54, 55, 56.

MR. KAZEMI: And 57.

THE COURT: I gave you my 57, 57, which you will give back to me after the lunch hour.

Are we all on the same page?

MR. ARIAIL: Yes, Your Honor.

THE COURT: We will see you at 2:05.

MR. DRATEL: Your Honor, will this --

MR. ARIAIL: Your Honor, are we going to have an opportunity to question 57 again? I apologize. Are we going to have an opportunity to question 57, if we have requests for the Court?

THE COURT: No. I mean, you can propose questions.

MR. ARIAIL: I will. If I just may have a moment to take a look at this?

THE COURT: You can do it after the lunch hour.

MR. ARIAIL: Thank you, Your Honor.

(Luncheon recess taken.)

(Continued on next page.)

A F T E R N O O N S E S S I O N

(The following occurred in the absence of the jury.)

THE COURT: Does somebody still have my copy of juror 57's questionnaire?

MR. ARIAIL: I do, Your Honor.

THE COURT: Could I have it back, please?

MR. ARIAIL: Certainly.

THE COURT: Thanks.

MR. ARIAIL: I believe it's the only copy now.

THE COURT: Okay. Ready?

MR. STEINGLASS: Yes, Your Honor. Mr. Dratel is coming in.

MR. ARIAIL: As is Mr. DuCharme.

THE COURT: Okay.

MR. ARIAIL: Well, I believe Mr. DuCharme is in the restroom, Your Honor.

THE COURT: All right. We will wait for him.

MR. ARIAIL: Thank you.

(Pause.)

THE COURT: All right. We are ready.

This is number 58.

MR. ARIAIL: Your Honor, there is an issue with juror 57, before we move on?

THE COURT: Yes.

MR. ARIAIL: In terms of just having looked at the, briefly at the transcript from the questions to the juror 57 and also now having had a chance to take a look at the questionnaire, I just have a concern with this juror. The answers -- some of the answers that she gave seem to suggest that she perhaps maybe already made a decision in the case. I am just concerned that she may not be willing to deliberate, which obviously would be necessary for the process, and I think it might be appropriate to ask the juror possibly one more question with regard to whether or not she would be willing to deliberate, to change ideas and thoughts about the process.

THE COURT: All right. We will pick this up again outside the presence of the jury.

(Juror 58 present.)

THE COURT: Good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: How are you?

THE PROSPECTIVE JUROR: Good.

THE COURT: Good.

You would be juror number 58 according to my calculation, is that right?

THE PROSPECTIVE JUROR: Yes, sir.

THE COURT: Good.

I have questions to follow-up on the questionnaire you filled out yesterday.

Thanks for your patience. Thanks for waiting. I know you have been sitting around.

THE PROSPECTIVE JUROR: We are well fed now.

THE COURT: Are you well fed?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Good. Happy to hear that.

You completed four years of college. What did you study in college?

THE PROSPECTIVE JUROR: Computer science.

THE COURT: Okay. You do sales for a service organization. Do you work in that field now?

THE PROSPECTIVE JUROR: Yes.

THE COURT: The defense team is over here at this table in the back.

THE PROSPECTIVE JUROR: Okay.

THE COURT: From your right to left it is David Stern and the defendant Betim Kaziu and Joshua Dratel and Henry Steinglass.

Do you know any of those folks?

THE PROSPECTIVE JUROR: No.

THE COURT: And then at the table that's closer to you are three prosecutors, Ali Kazemi, Shreve Ariail, Seth DuCharme, and a Special Agent of the FBI Stefanie Roddy.

Do you know any of those folks?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. The defendant in a criminal case has to be presumed innocent by the jury and that presumption alone requires the jury to find the defendant not guilty unless the government overcomes the presumption by proving guilt beyond a reasonable doubt.

Can you follow that instruction?

THE PROSPECTIVE JUROR: Absolutely.

THE COURT: Is there any reason you can't be fair in this case?

THE PROSPECTIVE JUROR: No, not at all.

THE COURT: All right. Thank you, sir.

Alicyn, could you take juror number 58 back to the jury room, please?

THE LAW CLERK: Yes, Your Honor.

(Juror leaves courtroom.)

THE COURT: Juror 59, he gave contact information but he has not returned any calls. Obviously, has second thoughts about participating in this process. So I am going to excuse juror 59 from this jury panel.

Does anybody want to be heard any further?

MR. ARIAIL: Not from the government, Your Honor.

THE COURT: Juror 31 is sick, also evidenced some serious communication difficulties in communicating that to the jury clerk. I am going to include juror 31 among the excused.

Does anyone want to be heard any further?

MR. ARIAIL: No, Your Honor.

THE COURT: All right. Next is juror 60.

(Juror 60 present.)

THE COURT: Have a seat right there. You can turn that chair. Every time somebody gets out of it, it faces the wall for some reason. But you can face us.

Good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: Thanks for your patience.

You are juror 60, correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Pleased to meet you.

I have a couple of follow-up questions based on yesterday's questionnaire.

THE PROSPECTIVE JUROR: Okay.

THE COURT: You are a teacher. What do you teach?

THE PROSPECTIVE JUROR: I teach animal care in BOCES, Long Island.

THE COURT: Great.

Oh, you checked that you sought a hardship. You thought you could be excused on hardship grounds.

Congratulations.

Do you have an appointment scheduled within the next couple of weeks?

THE PROSPECTIVE JUROR: Today, but I -- today.

THE COURT: You missed it?

THE PROSPECTIVE JUROR: Thursday.

THE COURT: Sorry about that.

THE PROSPECTIVE JUROR: That's all right.

THE COURT: Have you rescheduled it?

THE PROSPECTIVE JUROR: Not yet because I didn't know -- I didn't know about --

THE COURT: I don't mean to be -- by having you back here today -- sorry about the missed appointment today.

THE PROSPECTIVE JUROR: That's okay.

THE COURT: By having you back here, I don't mean to be insensitive to your condition. I am sensitive to it. But I wanted to speak to you about it because it wasn't apparent to me that being newly pregnant precluded you from serving. Maybe it does. But maybe you could elaborate a little bit more.

Are you concerned about --

THE PROSPECTIVE JUROR: No. Just the lady yesterday said that if we have anything such as hardships, such as a doctor's appointment, to list it.

THE COURT: Got it.

THE PROSPECTIVE JUROR: Just in case because sometimes you wait a long time for appointments. So I just followed the directions.

THE COURT: Okay. Have I put you in a position where you are going to have a difficult time rescheduling an appointment?

THE PROSPECTIVE JUROR: That I am not sure. I haven't called back yet.

THE COURT: Right.

Other than needing -- obviously you need to go see your physician or midwife, whatever you are going to see. Other than that concern, do you have any hardships serving as a juror?

THE PROSPECTIVE JUROR: No.

THE COURT: Do you think that's an insurmountable concern?

Is it possible for you to get the medical attention you need and sit as a juror? I don't know.

THE PROSPECTIVE JUROR: Yes, I'm sure it's possible.

THE COURT: It is possible?

THE PROSPECTIVE JUROR: Sure, yes.

THE COURT: You are willing to do that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Your husband is a caddy master. That's a dying breed.

THE PROSPECTIVE JUROR: Yes.

THE COURT: The prosecution team is at the table closer to you. Going from your right to your left, it's Ali

Kazemi, Shreve Ariail and Seth DuCharme. They are the prosecutors. They are assisted by Special Agent Stefanie Roddy of the FBI.

Do you know any of these people at the table?

THE PROSPECTIVE JUROR: No, do I not.

THE COURT: And then over here are David Stern, an attorney for the defendant; the defendant Betim Kaziu; and two more attorneys, Joshua Dratel and Henry Steinglass.

Do you know any of those folks?

THE PROSPECTIVE JUROR: I do not, no.

THE COURT: Can you be fair in this case?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You can listen to the evidence and base your verdict solely on the evidence in the case and follow my instructions on the law?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Any doubt about that?

THE PROSPECTIVE JUROR: No.

THE COURT: All right. Thank you for accommodating us. I appreciate it.

THE PROSPECTIVE JUROR: Okay.

THE COURT: Hayley will please take you back to the jury room.

(Juror leaves courtroom.)

THE COURT: Next is 62.

(Juror 62 is present.)

THE COURT: Good afternoon.

THE PROSPECTIVE JUROR: Hi.

THE COURT: Thanks for your patience. I know you have been waiting all day. We are grateful to you.

You are number 62, right?

THE PROSPECTIVE JUROR: Correct.

THE COURT: I have just a couple of follow-up questions based on your questionnaire.

Your son is in the Navy?

THE PROSPECTIVE JUROR: Yes.

THE COURT: He's on active duty now, I take it?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. The way you put the answer to this last question was, no, it wouldn't prevent you from being impartial. But your son is in the Navy. So I want to follow-up a little bit.

Is there anything about the fact that your son -- where is your son stationed, by the way?

THE PROSPECTIVE JUROR: Actually, he's in Virginia training.

THE COURT: He's training.

Anything about the fact that --

THE PROSPECTIVE JUROR: I just wanted you to be aware. That's all.

THE COURT: Okay. You could be fair?

THE PROSPECTIVE JUROR: I think so.

THE COURT: All right. The defendant in this case, is like any defendant in any case, presumed innocent. He must be presumed by the jurors in this case to be innocent throughout the trial and indeed throughout the deliberations, unless the government overcomes that presumption by proving guilt beyond a reasonable doubt.

Can you afford this defendant the presumption of innocence?

THE PROSPECTIVE JUROR: I think so.

THE COURT: Okay.

THE PROSPECTIVE JUROR: Do you want me?

THE COURT: I do want you to. It could hardly be more important.

Do you think you can follow that instruction, that he is presumed innocent?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Oh, you mentioned you are dropping -- you got two kids going to college in August?

THE PROSPECTIVE JUROR: August.

THE COURT: I am in the same situation except it is just one kid. Don't worry about it. This trial will be over long before then. All right?

You checked yes to the question whether you or a family member or close friend has ever been the witness to or the victim of a crime.

Can you tell me about that a little bit, please?

THE PROSPECTIVE JUROR: I currently work for CVS pharmacy. I used to own my own pharmacy three years ago, family pharmacy. I have been held up three times.

THE COURT: Wow. In the pharmacy?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Anything about that that would affect your ability to be fair in this case?

THE PROSPECTIVE JUROR: Again, I just wanted you to be aware. It was a question.

THE COURT: Sure. I understand.

But any residual feelings one way or the other about those events or how they were handled by the police that might cause you to favor one side or the other in this case?

THE PROSPECTIVE JUROR: I don't think so.

THE COURT: Okay. It seems to be a problem of increasing magnitude these days.

THE PROSPECTIVE JUROR: Yes, especially lately.

THE COURT: Yes.

Can you be fair in this case, sir?

THE PROSPECTIVE JUROR: I think so.

THE COURT: All right. Thank you.

Alicyn --

THE PROSPECTIVE JUROR: One more thing. I work for CVS. I have to go to work now. I work until ten, eight to ten. So at six I have to go to work and make up those four hours. If that's going to be an issue?

THE COURT: You work eight to 10:00, am to pm?

THE PROSPECTIVE JUROR: Yes, 14 hours.

THE COURT: Fourteen hours. That's a long day.

How many days a week?

THE PROSPECTIVE JUROR: One week five and the other week two.

THE COURT: Okay. Now, you intend to work those hours?

THE PROSPECTIVE JUROR: I am obligated. I am only getting paid until six. I don't have off from six to ten at night.

THE COURT: CVS doesn't pay their regular salary?

THE PROSPECTIVE JUROR: They pay me the, you know, eight to six.

THE COURT: They pay you for --

THE PROSPECTIVE JUROR: Eight to six.

THE COURT: Ten hours?

THE PROSPECTIVE JUROR: I have to relieve the person that's there when I go in.

THE COURT: Right.

So you are going to make less?

THE PROSPECTIVE JUROR: If you keep me after six, yes.

THE COURT: After six at night?

THE PROSPECTIVE JUROR: Yes. But I have to take the train home.

THE COURT: Right.

But ideally when people are on jury duty, they are not working.

THE PROSPECTIVE JUROR: I know. But --

THE COURT: In a place like CVS, you know -- you may know better than me, but CVS doesn't pay you your normal salary when you are on jury duty?

THE PROSPECTIVE JUROR: Yes.

THE COURT: They do?

THE PROSPECTIVE JUROR: Until -- until six.

THE COURT: Meaning what? How much less will you make per week?

THE PROSPECTIVE JUROR: Four hours every -- during the week.

THE COURT: Every shift?

THE PROSPECTIVE JUROR: Every day. If it's a three-day work week, I'd make 12 hours less. Plus I go to work, which I -- I'm planning on going today.

THE COURT: Right.

I don't want you to sit on this jury if you are going to plan on going to work at night because you will be tired.

THE PROSPECTIVE JUROR: I am going to be thinking of going to work, yes.

I didn't really understand it either, to be honest with you.

THE COURT: Your wife is also a pharmacist?

THE PROSPECTIVE JUROR: Yes; for CVS.

THE COURT: Oh. Okay.

Well, if you make little less money because -- you get paid for ten-hour shifts but normally work 12-hour shifts?

THE PROSPECTIVE JUROR: I work a 14-hour shift?

THE COURT: Fourteen hours. Sorry.

THE PROSPECTIVE JUROR: I am getting paid hourly for 14 hours.

THE COURT: Got it.

So you are going to be out a little money, right?

THE PROSPECTIVE JUROR: Yes.

I don't want to be out money.

THE COURT: Right. Nobody does.

THE PROSPECTIVE JUROR: Excuse me?

THE COURT: Nobody does.

THE PROSPECTIVE JUROR: No.

THE COURT: But sometimes that's part of the sacrifice. I don't mean to put you in a position where you can't pay your bills. Am I going to put you in that position?

THE PROSPECTIVE JUROR: Well, two kids going to college would be nice not to lose 12 hours.

THE COURT: Right.

You lose 12 hours per week?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Twenty-four hours?

THE PROSPECTIVE JUROR: Right.

THE COURT: For a two-week trial?

THE PROSPECTIVE JUROR: Right.

THE COURT: Does anybody want to be heard before I excuse this juror?

MR. ARIAIL: No.

THE COURT: You are excused.

THE PROSPECTIVE JUROR: That's it?

Thank you.

THE COURT: You are welcome.

(Juror leaves courtroom.)

THE COURT: What did he have, a 14-hour shift? Is that what he said?

MR. STERN: I think he was saying CVS will pay him for the regular eight-hour day but he loses the rest. One week he only works two days. So I don't know.

He didn't want to be here. That's pretty clear.

THE COURT: That's true.

I am not sure I want him counting my pills after 13-and-a-half hours.

Okay. Number 63 is about to join us.

(Juror number 63 is present.)

THE COURT: Good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: Thank you for your patience.

THE PROSPECTIVE JUROR: Yes.

THE COURT: I appreciate it, as does everyone else in the courtroom.

I have a couple of follow-up questions for you based on the questionnaire you filled out yesterday.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Just to be sure, you are juror number 63, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. What do you do for a living?

THE PROSPECTIVE JUROR: I have a business.

THE COURT: What kind of business?

THE PROSPECTIVE JUROR: Beauty salon.

THE COURT: A beauty salon?

THE PROSPECTIVE JUROR: Yes; my wife and me.

THE COURT: Oh, okay.

If you sit as a juror in this case, your wife will be able to take care of the beauty salon while you are here?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You have been a juror before?

THE PROSPECTIVE JUROR: No.

THE COURT: Have you been called for jury service before?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. So this is your first time for jury service?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You have friends or family members who are in law enforcement?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Yes?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How many?

THE PROSPECTIVE JUROR: A few; my brother-in-law.

THE COURT: What does your brother-in-law do?

THE PROSPECTIVE JUROR: He's in the construction business.

THE COURT: In the construction business?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you have any other friends or family members in law enforcement?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. You checked yes in response to the question whether you or a family member or close friend had ever been a witness to a crime or a victim of a crime.

THE PROSPECTIVE JUROR: No.

THE COURT: No, that hasn't happened?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. Have you or any family members ever been stopped or questioned or investigated or arrested by the police?

THE PROSPECTIVE JUROR: No, sir.

THE COURT: Do you think you could be fair in this case?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Yes?

Hayley, would you take juror number 63 in the hallway for just one minute?

THE LAW CLERK: Yes.

THE COURT: And stay there, please.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: Thank you, sir.

THE PROSPECTIVE JUROR: Thank you.

(Juror leaves courtroom.)

THE COURT: Okay. There is a fair number of disconnects there. I think maybe there might be a language problem. I will excuse him.

Does anybody want to be heard?

MR. STERN: No. He himself says he has a language problem in the questionnaire.

MR. ARIAIL: No objection.

THE COURT: Good point. And he is right.

Okay. Alicyn, could you tell Hayley to please excuse him?

THE LAW CLERK: Sure.

THE COURT: Thank you.

This will be 64.

(Juror number 64 is present.)

THE COURT: Hi. Good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: Thank you for your patience in waiting for us all day.

THE PROSPECTIVE JUROR: You are welcome.

THE COURT: You are juror 64, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I understand from your questionnaire you are concerned about generating income. You are a free lance graphic designer?

THE PROSPECTIVE JUROR: Yes, I am.

THE COURT: Are you the only person in your household who works?

THE PROSPECTIVE JUROR: Yes, I am.

THE COURT: I think I'd better excuse you then.

THE PROSPECTIVE JUROR: Oh.

THE COURT: You need to work in order to make ends meet?

THE PROSPECTIVE JUROR: I need to. I don't have any family here. It is just me.

THE COURT: Will you have difficulty paying the bills if you don't work?

THE PROSPECTIVE JUROR: Well, it's been a couple of rough years lately, getting clients, and you know, I'm struggling a little bit. I have some savings, but if I am not able to generate work for two weeks, it's going to affect, or whatever the length of the trial, it would affect my income of course.

THE COURT: All right. I will excuse you.

THE PROSPECTIVE JUROR: All right. Thank you.

THE COURT: Thank you.

THE PROSPECTIVE JUROR: Thank you.

(Juror leaves courtroom.)

THE COURT: Next is 65.

(Juror number 65 is present.)

THE COURT: Good afternoon.

I am up here.

THE PROSPECTIVE JUROR: Oh.

THE COURT: How are you?

THE PROSPECTIVE JUROR: All right.

THE COURT: Good.

Thanks for your patience. I know you have been waiting all day. We are grateful for your patience.

You are juror number 65, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I just wanted to ask a couple of follow-up questions based on your questionnaire from yesterday.

You checked on here that you have been a juror before. Once or more than once?

THE PROSPECTIVE JUROR: Well, twice, but the first one was settled before the trial began. It was just ready to start but they settled.

THE COURT: Okay.

THE PROSPECTIVE JUROR: So we didn't really deliberate on that one but the other -- the other case we went all the way through on it.

THE COURT: Okay. Civil case or criminal case?

THE PROSPECTIVE JUROR: The --

THE COURT: Was someone charged with a crime?

THE PROSPECTIVE JUROR: It was a drug case, drug sales.

THE COURT: Okay. We don't want to know what the verdict was.

Did the jury deliberate and reach a verdict in that case?

THE PROSPECTIVE JUROR: They did 100 percent vote, yes.

THE COURT: Okay. You get your news from radio and TV. Any particular programs you like to get your news from?

THE PROSPECTIVE JUROR: Talk shows, news, news when it comes on.

THE COURT: Okay. Which talk shows do you like?

THE PROSPECTIVE JUROR: Quite a few of them.

THE COURT: Okay. Give me one example, please.

THE PROSPECTIVE JUROR: There are so many. I get them all confused.

Neil Boortz, Neil Boortz, that's one show.

THE COURT: Okay. That's enough. I said only one is enough. Thanks.

The prosecution team is at this table. The defense team is at the second table. I just want to make sure you don't know any of these people before we can start.

Right here, at this table, right here in front of you -- no, down here. That's it.

Right to left, Ali Kazemi, Shreve Ariail and Seth DuCharme. They are prosecutors. And then there is a Special Agent of the FBI Stefanie Roddy.

Do you know any of those folks, sir?

Do you know any of them?

THE PROSPECTIVE JUROR: No, I don't know them.

THE COURT: Over here are David Stern, he's an attorney. Next to him is Betim Kaziu, he's the defendant in the case. Next to him is Joshua Dratel and then Henry Steinglass.

Do you know any of those folks, sir?

THE PROSPECTIVE JUROR: No.

THE COURT: Do you know any of them?

THE PROSPECTIVE JUROR: No, I've never seen them before.

THE COURT: Okay. It's really easy to say what the goal is in picking a jury but, boy, there is no more important goal in our business than what we are after here. And that is, to get people in the jury box who can do what is expected of jurors, listen to the evidence fairly, impartially, with an open mind; listen to me and follow my instructions on the law; and then base verdicts in the case solely on the evidence or lack of evidence that is adduced in this trial, not on anything that happened outside the courtroom. That's we need.

Do you think you can do that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You could be fair in this case to both sides?

THE PROSPECTIVE JUROR: Yes.

THE COURT: All right. Thank you.

Hayley is going to take you back to the jury room.
Thank you, sir.
(Juror leaves courtroom.)
THE COURT: Juror 67 is next.
(Juror number 67 is present.)
THE COURT: Hi. How are you?
THE PROSPECTIVE JUROR: I'm fine. Thank you. Good afternoon.
THE COURT: Good afternoon.
Thanks for your patience in waiting all day. We are grateful for your patience.
THE PROSPECTIVE JUROR: Thank you.
THE COURT: You are number 67?
THE PROSPECTIVE JUROR: Yes, sir.
THE COURT: Okay. I just have a few follow-up questions for you, as I have for all the prospective jurors.
You have a doctorate degree?
THE PROSPECTIVE JUROR: Yes.
THE COURT: In what discipline?
THE PROSPECTIVE JUROR: Theology.
THE COURT: Theology?
THE PROSPECTIVE JUROR: Yes.
THE COURT: So naturally you went into financial analysis?
THE PROSPECTIVE JUROR: That was my background. I

have an MBA. Then I changed to theology.

THE COURT: You are in back reconciliation.

THE PROSPECTIVE JUROR: I do bank reconciliation and I supervise employees.

THE COURT: What is bank reconciliation?

THE PROSPECTIVE JUROR: Bank reconciliation is the reconciliation of a book register with the bank statements on the monthly basis, to make sure that the account balances.

THE COURT: Oh. Okay.

Your wife is a nurse?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Can you be fair in this case?

THE PROSPECTIVE JUROR: Absolutely, yes.

THE COURT: All right. You seem pretty confident about that.

Are you?

THE PROSPECTIVE JUROR: Yes, sir.

THE COURT: Thank you.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: Alicyn will take you back to the jury room.

Thank you, sir.

(Juror leaves courtroom.)

(Juror number 68 enters courtroom.)

THE COURT: Good afternoon.

THE PROSPECTIVE JUROR: Hi.

THE COURT: Thanks for your patience.

THE PROSPECTIVE JUROR: No problem.

THE COURT: You are juror number 68, correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Pleased to meet you.

I have a few follow-up questions for all the prospective jurors based on the questionnaires.

THE PROSPECTIVE JUROR: Sure.

THE COURT: You mentioned that you have a family member or close friend who worked for or applied for a job in law enforcement?

THE PROSPECTIVE JUROR: Yes.

My husband is a retired NYPD officer.

THE COURT: Okay. How long is he off the job?

THE PROSPECTIVE JUROR: Three years.

THE COURT: Was he on it for the full 20?

THE PROSPECTIVE JUROR: Yes.

THE COURT: In uniform?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. What's he doing now?

THE PROSPECTIVE JUROR: He's home with the kids.

THE COURT: Oh, good.

Anything about the -- where was he, by the way?

THE PROSPECTIVE JUROR: The 67th Precinct.

THE COURT: Okay. Obviously, this case is brought by law enforcement and there will be law enforcement witnesses. Anything about the fact that your husband was a police officer for all those years that would affect your ability to be fair?

THE PROSPECTIVE JUROR: No. It really doesn't factor into my judgment at all.

THE COURT: Okay. You checked another one of your yes answers that I want to follow-up on. The question is, have you or a family member or friend ever been a witness to or victim of a after crime.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Tell me about that, please.

THE PROSPECTIVE JUROR: Well, I myself was a victim of a crime about 22 years ago. I was robbed. I was raped. That's the answer.

THE COURT: I'm sorry to revisit that.

The question I have from it is, whether there is anything about that fact or the way it was handled by the police or not handled by the police that might affect your ability to be fair?

THE PROSPECTIVE JUROR: No. I've had a lot of time to get over it. So I -- you know, I really haven't thought about it much or what they could have done differently or what they've done.

THE COURT: All right. Is there any reason at all you can't be fair in this case?

THE PROSPECTIVE JUROR: No.

I mean, my -- my present position makes sure that I am fair on a daily base with all my decisions. So I don't see those external life factors of having an impact on my decision-making process.

THE COURT: Okay. So you can follow my instructions and base your decision solely on the evidence in the case?

THE PROSPECTIVE JUROR: Absolutely.

THE COURT: You have a couple of masters degrees. What are they in?

THE PROSPECTIVE JUROR: I have a masters degree from NYU in Rehabilitation Counseling. I also have a Masters Degree in Business and Policy from Empire State College.

THE COURT: Okay. What kind of a monitor are you?

THE PROSPECTIVE JUROR: I work for the Southern District. I'm a compliance monitor with the City of New York and the Department of Corrections. There is a lawsuit that's been going on since 1976 and I'm the monitor on that case.

THE COURT: Was that case about the prison conditions?

THE PROSPECTIVE JUROR: Yes, it is.

THE COURT: Wow, the monitorship is still going on?

THE PROSPECTIVE JUROR: Yes.

THE COURT: That was Judge Lasker's case?

THE PROSPECTIVE JUROR: Yes. Judge Bear inherited it. I am working on it.

THE COURT: Okay. Can you give as you feel for what you do to fulfill your duties as monitor?

THE PROSPECTIVE JUROR: Well, I work with the Department of Corrections staff. I send them out on different investigations to see what the conditions are. We respond to reports from the Legal Aid Society or from inmates who have a complaint about the conditions. I send them out to basically gather the information and I make a decision on whether it's substantiated or not. I then file reports with the court letting the judge know what the conditions are within the jails.

THE COURT: What facilities are covered by this? Just Rikers.

THE PROSPECTIVE JUROR: Actually, all jails that are operated by the Department of Corrections. So it's actually about ten facilities that's operational.

THE COURT: By city DOCS?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Well, is there any respect in which you feel like an affinity for law enforcement or --

THE PROSPECTIVE JUROR: No. I've seen both sides of it. I've seen both sides, where law enforcement has been helpful. I've seen both sides where law enforcement has not been helpful. So --

THE COURT: All right. Thank you.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: Hayley will take you back to the jury room.

(Juror leaves courtroom.)

THE COURT: That's older than the Teamsters case.

Juror 69 is next.

(Juror 69 is present.)

THE COURT: Good afternoon.

THE PROSPECTIVE JUROR: Hello.

THE COURT: Thanks for your patience.

You are juror 69?

THE PROSPECTIVE JUROR: Yes, sir.

THE COURT: Pleased to meet you.

THE PROSPECTIVE JUROR: The same.

THE COURT: I have a couple of follow-up questions for you.

What is your degree in?

THE PROSPECTIVE JUROR: Sport and entertainment management.

THE COURT: Okay. Now you do customer service for a sunglass manufacturer?

THE PROSPECTIVE JUROR: Correct.

THE COURT: What does that mean?

THE PROSPECTIVE JUROR: I --

THE COURT: People have problems with their sunglasses they call you?

THE PROSPECTIVE JUROR: I deal mostly with retailers, buying partners, that kind of thing. When they need to place an order or have a problem, they call me.

THE COURT: Okay. How recently -- you say you are 22. You just graduated?

THE PROSPECTIVE JUROR: In December.

THE COURT: Okay. At the table closest to you, closer to you than the other table, are the prosecutors, Ali Kazemi -- going right to left -- Ali Kazemi, Shreve Ariail, Seth DuCharme. They are assisted by Special Agent Stefanie Roddy of the FBI.

And then the defense team is behind them, at the second table. David Stern is an attorney for the defendant, who is second person from the right, Betim Kaziu. Next to him are Joshua Dratel and Henry Steinglass.

Do you know any of those people?

THE PROSPECTIVE JUROR: No, sir.

THE COURT: A defendant in a criminal case has a right to testify, but even more important than that, has an absolute right not to testify, and it wouldn't be much of a right if the jury held it against the defendant for exercising it. So it is very important that the jurors in the case understand that if the defendant chooses not to testify, no inference can be drawn against him. It can't be held against him. Otherwise, the right is completely hollow.

Do you understand that and can you follow that instruction?

THE PROSPECTIVE JUROR: I do and I believe so.

THE COURT: Okay. And defendants are presumed innocent, must be presumed by the jurors that hear their cases, innocent, and that presumption is enough to require a jury to find a defendant not guilty unless the government overcomes it by proving the defendant guilty beyond a reasonable doubt.

Can you follow those instructions?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Any doubt in your mind about your ability to be fair in this case?

THE PROSPECTIVE JUROR: I am not sure.

THE COURT: Tell me, share with me what concerns you have that make you less than sure.

THE PROSPECTIVE JUROR: My own immaturity.

THE COURT: That takes a certain maturity to recognize one's immaturity.

What do you mean by that?

THE PROSPECTIVE JUROR: It would be difficult for me to send someone to jail.

THE COURT: All right. Jurors don't send people to jail. I take it what you are saying is you might have some difficulty finding someone guilty because the consequence of that would be he might go to jail?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you want to be heard before I excuse this juror?

MR. STERN: May we have a second?

(Pause.)

MR. STERN: No.

THE COURT: You are excused.

(Juror leaves courtroom.)

(Continued on next page.)

(Open court.)

(Prospective juror present.)

THE COURT: Good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: Welcome. Thanks for your patience, I know you have been waiting all day. We appreciate it.

You're number 70, I hope?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Good. What kind of law practice is your wife a legal secretary at?

THE PROSPECTIVE JUROR: Basically, real estate, primarily.

THE COURT: All right. You checked "yes" to the question, Did you or a family member or a close friend, were you ever a witness to or a victim of a crime?

I wonder if could you tell us about that a little bit, please.

THE PROSPECTIVE JUROR: That was actually about 25 years ago. My wife's aunt was brutally murdered in her apartment by her son-in-law.

THE COURT: Sorry to hear that.

Anything about that that would affect your ability to be fair in this case?

THE PROSPECTIVE JUROR: Not at all.

THE COURT: You have been a juror in the past?

THE PROSPECTIVE JUROR: Yes.

THE COURT: More than once?

THE PROSPECTIVE JUROR: Several times.

THE COURT: What kinds of cases?

THE PROSPECTIVE JUROR: Primarily criminal.

THE COURT: All right. How many criminal cases have you been a juror in?

THE PROSPECTIVE JUROR: Three.

THE COURT: You're an experienced juror.

THE PROSPECTIVE JUROR: I would say so.

THE COURT: We don't want to know what the verdicts were but in each of those three cases was the jury asked to reach a verdict and did it in fact reach a verdict?

THE PROSPECTIVE JUROR: Yes. In two of the three.

THE COURT: Two of the three there were verdicts?

THE PROSPECTIVE JUROR: Yes.

THE COURT: The third one?

THE PROSPECTIVE JUROR: Deadlocked.

THE COURT: Hung jury. Okay.

Were you also a juror in civil cases?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I want to be sure, I want to find out if you happen to know -- you're likely to, I suppose -- but you might happen to know one of the people involved in the case and that is important for us to know.

At the first table here, going right to left, Ali Kazemi, Shreve Ariail, Seth DuCharme. They are assistant U.S. Attorneys, they are prosecutors.

Next to Mr. DuCharme is Stefanie Roddy, a special agent of the FBI. Back here, right to left are attorney David Stern, the defendant Betim Kaziu, and two additional attorneys, Joshua Dratel and Henry Steinglass.

Do you know any of these folks?

THE PROSPECTIVE JUROR: Not at all.

THE COURT: Any reason at all why you can't be fair in this case?

THE PROSPECTIVE JUROR: None whatsoever.

THE COURT: Sorry?

THE PROSPECTIVE JUROR: No reason I can't be.

THE COURT: All right. You can listen to the evidence impartially with an open mind and follow the instructions on the law?

THE PROSPECTIVE JUROR: Absolutely.

THE COURT: Thank you, sir. Ilene will take you back to the juryroom.

(Prospective juror leaves.)

THE COURT: 76 is next.

(Prospective juror present.)

THE COURT: Good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: Have a seat, please. Thanks for your patience. I know you have been waiting all day. You are Juror No. 76?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I have a couple of follow-up questions based on yesterday's questionnaire. You have an associate's degree?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What did you study?

THE PROSPECTIVE JUROR: Economics.

THE COURT: Economics?

THE PROSPECTIVE JUROR: Yes, in my home.

THE COURT: Your husband's a mechanic?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Let me introduce you to the players in the trial. These are the prosecutors here, these three gentlemen at the table closest to you.

Going from your right to left, Ali Kazemi, Shreve Ariail, Seth DuCharme. Next to them is an FBI agent, Stefanie Roddy. And then back here is attorney David Stern, he's on the right, an attorney for Batim Kaziu, who is seated next to him, he's the defendant. Joshua Dratel and Henry Steinglass.

Do you happen to know any of these people.

THE PROSPECTIVE JUROR: No.

THE COURT: Do you pay attention to the news at all?

Do you watch the news on TV or get a newspaper?

THE PROSPECTIVE JUROR: I do pay attention to the news on TV.

THE COURT: On TV?

THE PROSPECTIVE JUROR: Yes, and newspaper.

THE COURT: Now, can you be fair in this case?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You can listen to the evidence fairly and impartially and with an open mind?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Follow my instructions on the law?

THE PROSPECTIVE JUROR: Yes.

THE COURT: For example, a defendant in any case can decide not to testify, that's his choice because we all have a right to remain silent.

You have probably seen that, people learn that, even if they are not lawyers from TV. You have a right to remain silent and if the defendant decides to remain silent, a juror can't hold that against him. You can't go back in the juryroom and say, Gee, why didn't he take the witness stand and tell us what happened?

He doesn't have to do that. He has a very important right to require the government to prove his guilt and he doesn't have to say anything.

Do you understand what I mean by that?

THE PROSPECTIVE JUROR: Yes, I do.

THE COURT: Can you respect that right and make sure you don't hold it against him if he doesn't testify?

THE PROSPECTIVE JUROR: Yes. I can.

THE COURT: Are you comfortable you can be fair to both sides in this case?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Any concerns at all?

THE PROSPECTIVE JUROR: No.

THE COURT: All right. Thank you. Alicyn will take you back to the juryroom. Thank you very much.

THE PROSPECTIVE JUROR: Thank you.

(Prospective juror leaves.)

(Prospective juror present.)

THE COURT: Good afternoon. How are you?

THE PROSPECTIVE JUROR: Fine, thank you.

THE COURT: You're number 79, I hope?

THE PROSPECTIVE JUROR: Yes, I am.

THE COURT: Nice to meet you. Thanks for your patience, sitting around all day. I'm grateful to you and your colleagues back there.

I just have a few follow-up questions based on the questionnaire you filled out yesterday, as I do for all the jurors.

You have an associate's degree?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What did you study?

THE PROSPECTIVE JUROR: It was applied science, secretarial science with a legal degree. Well, legal secretary for many years.

THE COURT: For what type of lawyer or lawyers?

THE PROSPECTIVE JUROR: General practice.

THE COURT: No criminal work?

THE PROSPECTIVE JUROR: They did like real estate, some litigation.

THE COURT: It turns out I know a little bit about this, and support staff in places like that sometimes know more law than what lawyers do, but in a trial like this you got to take your law from me even if you think you know a little something about the law.

Can you do that, can you follow my instructions to you on the law?

THE PROSPECTIVE JUROR: Yes.

THE COURT: All right. What does your husband teach?

THE PROSPECTIVE JUROR: He teaches meteorology, navigation and oceanography. I shouldn't tell you where, but that's the subjects he teaches.

THE COURT: It doesn't matter. You have family members or friends who worked for or applied for law enforcement positions?

THE PROSPECTIVE JUROR: My father and my father-in-law.

THE COURT: What did he do?

THE PROSPECTIVE JUROR: My father was a New York City police officer and my father-in-law was a Criminal Court judge and a sheriff.

THE COURT: I take it it's a while ago your father was in the NYPD?

THE PROSPECTIVE JUROR: Yes. He retired in the early eighties. He passed away.

THE COURT: Sorry to hear that. Your father-in-law is a Criminal Court judge?

THE PROSPECTIVE JUROR: He was and then he was a Suffolk County sheriff. He's retired as well.

THE COURT: Anything about either of those relationships that would affect your ability to be fair?

THE PROSPECTIVE JUROR: I don't believe so, no.

THE COURT: In this case, like any other, it's a very fact specific case, whether the government can prove these charges beyond a reasonable doubt.

Are you confident you can do what is expected of jurors, which is to listen to the evidence in the case and base your verdict solely on the evidence in this case?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You also checked "yes" in response to the question whether a family member or close friend had been a witness to or a victim of a crime.

THE PROSPECTIVE JUROR: A friend of mine, her house was robbed.

THE COURT: Anything about that that would affect your ability to be fair?

THE PROSPECTIVE JUROR: No. That was the only person I know that was the victim of a crime.

THE COURT: The next question was whether a family member or close friend had ever been stopped or questioned or investigated or arrested.

THE PROSPECTIVE JUROR: Just stopped, like a traffic stop like that, that's what I meant. Something like that.

THE COURT: All right. Anything about that that would affect your ability to be fair?

THE PROSPECTIVE JUROR: No. From being, you know, I guess the daughter of a police officer, making a right on a red. It actually happened to me when I was taking my son home from the orthodontist and realized that. They pulled over my son and he got a speeding ticket. Things like that. It wasn't anything that would affect my judgment.

THE COURT: So these were traffic stops of you?

THE PROSPECTIVE JUROR: One was myself and one was my son, but yes.

THE COURT: Let's see if you happen to know any of these folks, probably not likely, but let's make sure.

The prosecutors are right here at the table closest to you. They are, beginning on your right, Ali Kazemi, Shreve Ariail and Seth DuCharme. They are assisted by Special Agent Stefanie Roddy of the FBI.

In the back here at the defense table on the end closer to me is David Stern. Next to him is Betim Kaziu, he's the defendant in the case, then Joshua Dratel and Henry Steinglass.

Do you know any of these folks?

THE PROSPECTIVE JUROR: No, I don't.

THE COURT: Any reason you can't be fair in the case?

THE PROSPECTIVE JUROR: No, I don't think so. I can be fair.

THE COURT: I'm sorry?

THE PROSPECTIVE JUROR: I'll be fair.

THE COURT: Great. Thank you. Hayley will take you back to the juryroom.

(Prospective juror leaves.)

(Prospective juror present.)

THE COURT: Good afternoon. How are you?

THE PROSPECTIVE JUROR: All right.

THE COURT: Thanks for your patience. I know you have been waiting all day. We're grateful.

THE PROSPECTIVE JUROR: All right.

THE COURT: You're number 80, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I just have a couple of follow-up questions for you. You mentioned in response to the question about your education, college. Did you finish college?

THE PROSPECTIVE JUROR: I'm still in going into my second year.

THE COURT: What are you studying?

THE PROSPECTIVE JUROR: English writing.

THE COURT: Good for you. I did that. It prepared me to be a house painter.

THE PROSPECTIVE JUROR: I know how that works out.

THE COURT: The people who are going to prosecute the case are here at this table. Let me introduce them to you to see whether or not you know them.

Ali Kazemi is closest to me. Next to him is Shreve Ariail and then Seth DuCharme. And that is Stefanie Roddy of the FBI at the end.

At the far end of the defense table is Henry Steinglass. Next to him is Joshua Dratel. Next to him is the defendant Betim Kaziu and at the end closest to me is David Stern.

Do you know any of these people, sir?

THE PROSPECTIVE JUROR: No.

THE COURT: Now, you tweet?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you call someone who tweets a tweeter?

THE PROSPECTIVE JUROR: Yeah.

THE COURT: Yes?

THE PROSPECTIVE JUROR: Yes.

THE COURT: No tweeting on this trial. If you're a juror, you can't do that.

THE PROSPECTIVE JUROR: Right.

THE COURT: Okay? You're not such an inveterate tweeter that you would tweet about the trial, right?

THE PROSPECTIVE JUROR: No. I wouldn't tweet about it.

THE COURT: It's really important that you not do that if you get selected as a juror and that you not, whatever, blog, tweet about your jury service. It's kind of private stuff. After the trial's over that would be fine but not during the trial.

You could follow that instruction if you're selected?

THE PROSPECTIVE JUROR: Yes, I can.

THE COURT: So you think you can be fair in this case, sir?

THE PROSPECTIVE JUROR: I believe so.

THE COURT: You'll listen to the evidence impartially and with an open mind and follow my instructions on the law?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you. Alicyn will take you back to the juryroom now.

THE PROSPECTIVE JUROR: All right.

(Prospective juror leaves.)

(Prospective juror present.)

THE COURT: You're juror 81?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: Nice to see you. Thank you for your patience.

THE PROSPECTIVE JUROR: Pleasure.

THE COURT: You're number 81; correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Welcome to the courtroom. I have a couple of follow-up questions for you, as I have of all the prospective jurors.

You're retired from the Sanitation Department?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How many years were you in that position?

THE PROSPECTIVE JUROR: I was ten years a supervisor, ten years a sanitation worker.

THE COURT: You've been a juror before?

THE PROSPECTIVE JUROR: Yes.

THE COURT: More than once?

THE PROSPECTIVE JUROR: Yes. Sequestered once and the second time was -- I think it was a murder trial.

THE COURT: Was that the first one when you were sequestered?

THE PROSPECTIVE JUROR: Yes. That one was --

THE COURT: It was in state court?

THE PROSPECTIVE JUROR: It's a wile ago.

THE COURT: A criminal case?

THE PROSPECTIVE JUROR: No. Actually it was a civil case. I didn't understand that.

THE COURT: It has to do with the court officers union, basically.

So a civil case, and then you were a juror in a criminal case?

THE PROSPECTIVE JUROR: Yes. But they came to a verdict with that.

THE COURT: All right. What happened in the civil case, it got settled?

THE PROSPECTIVE JUROR: It got settled.

THE COURT: Got it. You have family members or friends who worked in law enforcement or applied for positions in law enforcement?

THE PROSPECTIVE JUROR: I have two children in Corrections.

THE COURT: Here in the city?

THE PROSPECTIVE JUROR: Yes. Both of them, one works in Manhattan at the Tombs and one works at Rikers Island.

THE COURT: How long have they been doing that, approximately?

THE PROSPECTIVE JUROR: My daughter has been there five years, my son just started this year.

THE COURT: Do you talk to them about their work?

THE PROSPECTIVE JUROR: Not really. I just ask them did they have a good day.

THE COURT: Anything about those relationships, sir, that might affect your ability to be fair in this case?

THE PROSPECTIVE JUROR: No.

THE COURT: You checked "yes" to the question whether you or a family member or a friend of ever been stopped or questioned or investigated or arrested. What's that all about?

THE PROSPECTIVE JUROR: That's my younger son.

THE COURT: He have a little trouble?

THE PROSPECTIVE JUROR: Yes, disorderly conduct.
THE COURT: How long ago?
THE PROSPECTIVE JUROR: That must have been about two years ago.
THE COURT: Anything about that or the way it was handled by the police that would affect your ability to be fair?
THE PROSPECTIVE JUROR: Not to be fair, no.
THE COURT: You can put that aside and base your verdicts in this case solely on the evidence in this case?
THE PROSPECTIVE JUROR: Yes.
THE COURT: You watch the TV news?
THE PROSPECTIVE JUROR: Well, I'm an advocate of Channel Seven.
THE COURT: Who is the anchor on Channel Seven?
THE PROSPECTIVE JUROR: Well, I like Sade Baderinwa.
THE COURT: I know who you're thinking of.
THE PROSPECTIVE JUROR: It's hard to pronounce.
THE COURT: Any reason at all you can't be fair in this case, sir?
THE PROSPECTIVE JUROR: No. I just like the news. I mean, to me it's like repetitious but I want to see what changed, that's all.
THE COURT: I got you. As far as this case is concerned, any doubt in your mind about your ability to be

fair?

THE PROSPECTIVE JUROR: No.

THE COURT: Well, thank you. Hayley is going to take you back to the juryroom now. Thanks a million.

THE PROSPECTIVE JUROR: Have a good day or evening.

THE COURT: You too.

(Prospective juror leaves.)

(Prospective juror present.)

THE COURT: Good afternoon.

THE PROSPECTIVE JUROR: Hello.

THE COURT: How are you?

THE PROSPECTIVE JUROR: Good.

THE COURT: Thanks for your patience. You're waiting all day. We appreciate your being patient with us.

THE PROSPECTIVE JUROR: No problem.

THE COURT: You're Juror No. 82, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What are you studying? I see you're going to get a degree next May. What are you studying?

THE PROSPECTIVE JUROR: I am currently a senior in Baruch College.

THE COURT: What is your major?

THE PROSPECTIVE JUROR: I'm majoring in finance.

THE COURT: Great. You get your news from the Wall Street Journal, CNN and the New York Times?

THE PROSPECTIVE JUROR: Yes.

THE COURT: The defendant in this case and the defendant in every criminal case is entitled to the presumption of innocence and he doesn't have to do anything, he certainly doesn't have to prove innocence, he doesn't have to prove anything, he is presumed innocent and that presumption by itself is enough to require a jury to find a defendant not guilty unless the government proves each of the elements of the crimes charged beyond a reasonable doubt.

Can you follow that? Do you understand that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You can follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Any reason you can't be fair in this case?

THE PROSPECTIVE JUROR: No.

THE COURT: Thank you, sir.

THE PROSPECTIVE JUROR: You're welcome.

THE COURT: Alicyn will take you back to the juryroom.

(Prospective juror leaves.)

THE COURT: We will take a break shortly and give you a chance to consult with one another and with your client before peremptories.

Do you want to open today?

MR. STERN: No.

MR. KAZEMI: We are prepared to, your Honor. We don't have a preference one way or the other. I think tomorrow morning would be fine.

(Pause.)

THE COURT: We'll open tomorrow.

(Prospective juror present.)

THE COURT: Hello.

THE PROSPECTIVE JUROR: How are you doing?

THE COURT: I'm doing great. You're number 83, I hope?

THE PROSPECTIVE JUROR: That is correct.

THE COURT: A pleasure to meet you, and thanks for your patience. I have a few follow-up questions for you.

THE PROSPECTIVE JUROR: Sure.

THE COURT: You say you work in investment banking. Can you be a little more elaborate in about what you do.

THE PROSPECTIVE JUROR: Sure. I work for JPMorgan Chase. I'm in the branch office as a retail banker, handling investments, 401(k)s, day-to-day banking.

THE COURT: Good. Let me introduce you to the players in the trial. If you were to happen to know one of them it would be an important fact for us to know.

The prosecution team is at the table closer to you, and from right to left, Ali Kazemi, Shreve Ariail, Seth

DuCharme, assisted by Special Agent Stefanie Roddy of the FBI.

Back here at the defense table, right to left, David Stern, attorney for Betim Kaziu, seated next to Mr. Stern, and then Joshua Dratel and Henry Steinglass, also attorneys for Mr. Kaziu?

THE PROSPECTIVE JUROR: It doesn't ring a bell.

THE COURT: You may have met them in the past but they weren't memorable enough to stand out, right?

THE PROSPECTIVE JUROR: Correct.

THE COURT: A defendant in a criminal case has the right to testify. More importantly, a defendant in a criminal case has a right not to testify and it wouldn't be much of a right if the jury held it against him if he exercised it.

So this defendant, like all defendants, is entitled to a jury that, with respect to his right to remain silent, by not holding it against him if he chooses, it's his choice not to take the witness stand, are you able to do that, able to respect his right to remain silent?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You wouldn't hold it against him or draw an inference against him if he chose not to take the witness stand?

THE PROSPECTIVE JUROR: No.

THE COURT: All right. Any reason at all in your judgment why you couldn't be fair in this case?

THE PROSPECTIVE JUROR: I don't believe so.

THE COURT: All right. Thank you.

Hayley, would you please take this Juror No. 83 back to the juryroom.

MR. ARIAIL: Your Honor, 19.

THE COURT: I'm sorry. I missed a follow-up. Thank you, Mr. Ariail.

You have a family member or a close friend who was a witness to or a victim of a crime?

THE PROSPECTIVE JUROR: Close family -- close friend, yes.

THE COURT: Briefly, what was that?

THE PROSPECTIVE JUROR: Just like a bar brawl type thing.

THE COURT: Recently?

THE PROSPECTIVE JUROR: Year and a half ago, I would say.

THE COURT: Anything about that that would affect your ability to be fair?

THE PROSPECTIVE JUROR: No, I don't see why not.

THE COURT: All right. You don't see why -- there's nothing about that that would affect your ability to be fair?

THE PROSPECTIVE JUROR: No.

THE COURT: You also checked "yes" to the question whether a family member or close friend was stopped or questioned or investigated or arrested. What was that?

THE PROSPECTIVE JUROR: I have had a few close friends who were arrested.

THE COURT: Recently?

THE PROSPECTIVE JUROR: Not more than like four years ago.

THE COURT: Sorry.

THE PROSPECTIVE JUROR: Three or four years ago.

THE COURT: These are good pals of yours?

THE PROSPECTIVE JUROR: Yeah, people I know, I grew up with through school and stuff like that.

THE COURT: Arrested by local people, the police?

THE PROSPECTIVE JUROR: Correct.

THE COURT: Do you have any ill will or any grudge against the police for the cases that were made against your close friends?

THE PROSPECTIVE JUROR: No.

THE COURT: Anything about these experiences that would affect your ability to be fair?

THE PROSPECTIVE JUROR: No.

THE COURT: Thank you, sir.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Hayley, could you please take him back to the juryroom.

(Prospective juror leaves.)

(Prospective juror present.)

THE COURT: Good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: Thanks for joining us. Thanks for your patience, waiting around all day, I'm grateful to you, as are the other participants in this trial.

I have a few follow-up questions for you. I see your husband is a detective?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How long is he on the job?

THE PROSPECTIVE JUROR: He's on the job ten years.

THE COURT: How long has he has been a detective?

THE PROSPECTIVE JUROR: Five.

THE COURT: What kind of work does he do?

THE PROSPECTIVE JUROR: He's in Internal Affairs.

THE COURT: Obviously this case is brought by law enforcement. You're likely to see some law enforcement witnesses in the case. Anything about that or what you know about your husband's job, or the fact that he's a detective that would affect your ability to be fair?

THE PROSPECTIVE JUROR: No.

THE COURT: You're confident you can be fair?

THE PROSPECTIVE JUROR: Yes.

THE COURT: The questionnaire raises the topic of cooperating witnesses, people who make bargains with the government and testify, and you said you have a belief or an opinion about such testimony and you said you had skepticism about the intentions of the individual and whether their information is provided for self-serving purposes.

Well I want to explore this a little bit further with you. Possibly you hit the nail right on the head but I want to understand fully what your beliefs are.

In your judgment would someone who is testifying under an agreement with the government never be believable?

THE PROSPECTIVE JUROR: Not that they would never be believable, but it takes further looking into in terms of their reason behind it. Of course they're looking for some kind of deal, it's the reason why they are actually helping. So you just can't always take everything with a grain of salt.

THE COURT: I think that is exactly right. That's what we tell jurors what they have to use in making believability decisions, credibility decisions about that kind of witness, they have to be extra careful because they have that added motivation.

On the other hand, something else we tell jurors is that it's perfectly permissible for prosecutors to enter into those agreements and to present those witnesses and the prosecutor is entitled to stand up in front of a jury and say you can believe that witness, and if you believe that witness you can base a verdict on that witness' testimony.

So it's permissible for the government to use them, use these witnesses who make bargains with the government. Do you understand that.

THE PROSPECTIVE JUROR: Yes.

THE COURT: And can you follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I think you've already answered my question. My question is whether you would categorically place those witnesses in the unbelievable category, and I think you've told me you wouldn't, you would just be especially careful with them, correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You checked "yes" to whether a family member or close friend -- let me back up. You said a family member or a close friend worked in law enforcement. Obviously that's your husband. Were there others as well?

THE PROSPECTIVE JUROR: Close friends, yes.

THE COURT: In the Police Department?

THE PROSPECTIVE JUROR: Yes.

THE COURT: A lot of close friends?

THE PROSPECTIVE JUROR: Several.

THE COURT: Are these friends, are they coworkers of your husband or other friends that are also in the Police Department?

THE PROSPECTIVE JUROR: Coworkers of my husband. I have a cousin who is a CO.

THE COURT: You have a cousin who is a CO?

THE PROSPECTIVE JUROR: Yes.

THE COURT: CO meaning corrections officer?

THE PROSPECTIVE JUROR: Corrections officer.

THE COURT: The same question; anything about those relationships -- I already asked about your husband, but these other friends that are in law enforcement, might that affect your ability to be fair?

THE PROSPECTIVE JUROR: No.

THE COURT: You or a close friend or a family member has been the victim or a witness to a crime?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Can you tell me a little bit about that.

THE PROSPECTIVE JUROR: In particular, this also brings up the skepticism I have. My uncle was shot by a police officer while he was on the ground on his back. He also did time because of a witness who got a deal from the cops to testify against him.

THE COURT: You think your uncle was wrongly convicted?

THE PROSPECTIVE JUROR: Yes, because the person came around later on, a few years later and admitted that he did what he did.

THE COURT: That's a pretty good reason to be upset at law enforcement.

THE PROSPECTIVE JUROR: I mean, everyone's not the same. I understand that.

THE COURT: Would that carry over into this case? Do you think you might be affected and be maybe a little bit predisposed against the government in this case?

THE PROSPECTIVE JUROR: Honestly, I can't see that. I don't believe I would be.

THE COURT: You think you can be fair?

THE PROSPECTIVE JUROR: I think I could.

THE COURT: And it may be the same set of series of events, but you checked "yes" to the question whether a family member or close friend had been stopped or questioned, investigated or arrested?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Same thing?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Well, this is like right at the heart of what we do when we pick jurors. We try to make a determination about whether someone's experiences are a good thing, they contribute to people's common sense, but if they get in the way of people being completely fair in a particular case, then they are a reason to keep someone off a jury.

What is the relationship, your uncle?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Has that case caused in you the kind of feelings that maybe it might not be perfectly fair to the government to allow you to be on this jury? What do you think?

THE PROSPECTIVE JUROR: I mean, I'm married to a police officer so it's kind of hard to say that that had affected me to that extent because he's on the opposite side.

THE COURT: Do you think you can be fair to the government?

THE PROSPECTIVE JUROR: I think I could.

THE COURT: Are you in a position to base your credibility determination about any witness the government calls that has a cooperation agreement, are you able to base that on the facts of this case or are you going to have in the back of your mind that your uncle got convicted because someone who had a deal with the government lied?

THE PROSPECTIVE JUROR: No. I mean, it was several years ago, so it's not as though it's -- it's something I know of, something I remember but not something that drives me.

THE COURT: Are you telling me you'll be able to make a determination based on the evidence in this case as to whether to believe such a witness?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Any reason you might not be fair in this case, in your view?

THE PROSPECTIVE JUROR: Not that I can think of.

THE COURT: You can give both sides a fair trial?

THE PROSPECTIVE JUROR: I will definitely try. I mean, yes, I think so.

THE COURT: You think you can?

THE PROSPECTIVE JUROR: I will try.

THE COURT: Alicyn is going to take you back to the juryroom.

(Prospective juror leaves.)

(Prospective juror present.)

THE COURT: Good afternoon: Please have a seat.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: Thank you for joining us. Thank you for your patience. We have been keeping you waiting all day long. We are grateful.

THE PROSPECTIVE JUROR: I don't mind.

THE COURT: It's a pleasure to meet you. You are juror 86, I hope?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You wrote that you went to the university level.

THE PROSPECTIVE JUROR: I have a bachelors degree.

(Continued next page.)

THE COURT: In what?

THE PROSPECTIVE JUROR: Business administration.

THE COURT: Okay.

MR. DRATEL: Your Honor, I'm having a little trouble hearing.

THE COURT: I'm sorry.

Her degree is in business administration.

THE PROSPECTIVE JUROR: That is correct.

THE COURT: Let me introduce you to the people in the well of the courtroom who are going to be involved in the trial.

The prosecution team is at the table closer to you. Starting at the end closer to me is Ali Kazemi, Shreve Ariail and Seth DuCharme. And then next to Mr. DuCharme is Stefanie Roddy of the FBI.

And then back here are the defendant and his three lawyers. Back at this table to the far right on the table is David Stern.

Could you raise your hand, Mr. Stern?

Thank you.

Then next to him is Betim Kaziu, the defendant in the case. Next to him are Joshua Dratel and Henry Steinglass.

Do you know any of these people?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. Do you think you can be fair in this case?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay.

THE PROSPECTIVE JUROR: Depending upon the evidence presented.

THE COURT: Meaning what?

THE PROSPECTIVE JUROR: Whatever is presented by the prosecution.

THE COURT: All right. Do you mean that you will base your verdict solely on the evidence in the case?

THE PROSPECTIVE JUROR: Well, I believe there will be some form of words coming from the defense, whatever that is.

THE COURT: Okay. You mean, from -- what do you mean from the defense? From whom?

THE PROSPECTIVE JUROR: Whatever question.

THE COURT: Okay.

THE PROSPECTIVE JUROR: Or answer.

THE COURT: Right.

And the defense lawyers will examine government witnesses, right?

Do you understand?

THE PROSPECTIVE JUROR: Yes, I do.

THE COURT: One thing I should make clear with you is, and you may understand this already, but in a criminal case like this, the defendant does not have to do anything. The burden is solely with the government.

Do you understand that?

THE PROSPECTIVE JUROR: I do.

THE COURT: Although it is rare that defense lawyers don't question the government witnesses -- they usually do. They don't have to. They can just sit there completely silent and depend on the burden of proof, depend on the fact that in our system the government has the burden of proving guilt beyond a reasonable doubt, and if it fails to do so, the jury has to find the defendant not guilty, even if no one at that table ever says anything at the trial.

Do you understand that?

THE PROSPECTIVE JUROR: I do.

THE COURT: Then there is this other issue about whether the defendant himself chooses to testify. He may. All defendants have the right to testify.

Do you understand that?

THE PROSPECTIVE JUROR: Yes, I do.

THE COURT: And then they have an unbelievably important right not to testify, and the right to have a jury which consists of people who won't hold it against him if he doesn't testify.

Do you understand?

THE PROSPECTIVE JUROR: I do.

THE COURT: Can you respect that right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: All right. So you'll understand that the defendant can choose not to testify and you can't hold that against him in any way, shape or form.

Do you understand that?

THE PROSPECTIVE JUROR: I do.

THE COURT: And you can follow that instruction?

THE PROSPECTIVE JUROR: Yes, I do.

THE COURT: Thank you.

Hayley is going to take you back to the jury room now.

MR. DRATEL: Your Honor, page five. I assume that there is the follow-up there?

THE COURT: Yes.

Is there anybody -- no, there is nothing to follow-up. As long as you brought it up.

You do accounting work, correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is there anybody in your household besides you who works?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Who?

THE PROSPECTIVE JUROR: My siblings.

THE COURT: Your what?

THE PROSPECTIVE JUROR: My brothers and sisters.
THE COURT: Okay. Briefly, what do they do?
THE PROSPECTIVE JUROR: They are mostly in the medical field.
THE COURT: Okay. How many brothers and sisters live with you?
THE PROSPECTIVE JUROR: At this point, no.
THE COURT: Oh. Okay.
Thank you.
THE PROSPECTIVE JUROR: You are welcome.
THE COURT: Wait. I'm sorry. Forgive me.
You could have a seat.
You said you were a juror.
Were you ever a juror before?
THE PROSPECTIVE JUROR: Yes, grand jury.
THE COURT: Grand jury?
THE PROSPECTIVE JUROR: Twice.
THE COURT: Oh, okay.
This may come as a surprise to you since you were a grand juror, but -- did you vote on indictments in the grand jury?
Did the grand jury indict people?
THE PROSPECTIVE JUROR: Yes.
THE COURT: Okay. Here is the surprise part.
Once you get here into a trial court, an indictment

means nothing. It is just a charge. That's because in the grand jury you may remember -- how long ago were you on the grand jury?

THE PROSPECTIVE JUROR: Oh, more than five years ago.

THE COURT: Okay. There are no defense lawyers there, no one cross-examines witnesses. Proof beyond a reasonable doubt is not what happens in the grand jury. It is just probable cause.

So by the time you get to this stage, the -- all the grand jury does is sign a piece of paper that contains a charge. It is evidence of nothing. It is the beginning of the case and then the trial is to see if the government can prove those charges.

Do you understand?

THE PROSPECTIVE JUROR: I do.

THE COURT: The fact that a grand jury may have returned some charges in an indictment in this case means nothing at all.

Can you follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you. I think I am finally done.

THE PROSPECTIVE JUROR: Thank you.

(Juror leaves courtroom.)

THE COURT: That's 40.

Do you want to be heard any further on your application with regard to prospective juror number 57?

MR. ARIAIL: Yes, Your Honor.

I think it -- given nature of the prospective juror's responses in her questionnaire and upon review of the transcript, it appeared at least that the defendant -- I'm sorry -- that the juror had at least come to some conclusion about how she was going to resolve the case already and I think it would be appropriate to inquire further about whether or not she would be capable of deliberating with other jurors and potentially change her mind based on discussions as she would deliberate.

That's all I would request, Your Honor.

THE COURT: Denied.

All right. We've got 40. Ilene, we have a couple of jury rooms with 20 jurors in each, right?

THE CLERK: Yes.

THE COURT: Why don't we keep them where they are. Leave another ten in the third jury room, just in case we need them.

THE CLERK: Okay.

THE COURT: How many do you have there now?

THE CLERK: We have 15.

THE COURT: Let's leave them there.

Let's break until 4:10. It should give you plenty of time to mull over your decisions. We will come back at 4:10.

Do you want to see these people?

MR. STERN: I don't think we need to.

THE COURT: All right. Then you will do your strikes.

MR. STERN: Can we use one of the rooms right out here?

THE COURT: Of course.

MR. ARIAIL: Your Honor, if we could clarify the strike system that we are going to use?

THE COURT: Sure.

We will have six rounds of preemptory challenges. The government will go first in rounds two, four and six. The defense will go first in one, three and five. This is to get our principal panel.

In rounds one through four, the government gets one challenge. Actually in rounds one through six, the government gets one challenge.

The defense gets two challenges in rounds one through four, and then one in each of five an six.

So there are ten peremptories for the defendant, six for the government.

Then we will have our 12 from a panel of 28, from that first 28.

Assuming nobody waives anything in that first go round, and recognize that in a system like this a waiver is just -- in the first round if you say I waive, it doesn't mean you waive from thence forward. But in essence you have taken juror number 28 off the jury panel. By the time we are done with the challenges, in light of that waiver, if all the other challenge are exercised, we'll have 13 jurors and we will only seat 12.

Does everybody understand that?

Everybody is nodding yes.

Assuming there are no waivers, then we'll have 12 people left from which we will select six alternates. You each get one challenge in each of the three rounds and there the government will go first in rounds one and three.

Any questions?

MR. STERN: Can we get an extra minute now that we taken that time to do that?

THE COURT: Yes.

MR. STERN: Thank you.

THE COURT: See you at 4:11.

(Recess taken.)

(Continued on next page.)

(The following occurred in the absence of the jury.)

THE COURT: Okay.

MR. STERN: I want to see if we have the same understanding. I talked to the government. At least the government and I do. We think it was your understanding, that number 66 would go in his -- in the order he came in and would therefore be among the alternates, not among --

THE COURT: Yes. He's the first juror in the alternate panel.

MR. STERN: That's how we did it. I wanted to make sure that was right.

THE COURT: Okay. Defendant goes first.

MR. DRATEL: Your Honor, 25 and 26.

THE COURT: Okay.

MR. ARIAIL: 57, Your Honor.

THE COURT: You go again because you lead off round two.

MR. ARIAIL: 14.

MR. DRATEL: Sorry. I didn't hear.

MR. ARIAIL: 14.

THE COURT: 14.

MR. DRATEL: Thank you.

36 and 51, Your Honor.

We start round three, right?

THE COURT: Yes.

MR. DRATEL: So 12 and 56.
THE COURT: Okay.
MR. ARIAIL: 49, Your Honor.
THE COURT: That's the government's third strike. So you go again now. You lead off round four.
MR. ARIAIL: 30, Your Honor.
MR. DRATEL: 30?
THE COURT: Yes. The government's fourth challenge is to number 30.
Now, the defense goes three times because you are finishing round four and beginning round five.
MR. DRATEL: Right.
65 and 22, and then for round five, 58.
THE COURT: I'm sorry. Say those numbers again.
MR. DRATEL: Sure.
65.
THE COURT: Yes.
MR. DRATEL: 22 and 58.
THE COURT: Okay. The government goes twice and then it is finished.
MR. ARIAIL: 39 and 42, Your Honor.
THE COURT: There is one left. It belongs to the defendant.
MR. DRATEL: Yes.
48, Your Honor.

THE COURT: Okay. Let's make sure we are all on the same page.

Our juror consists of jurors number 1, 17, 20, 23, 24, 29, 32, 41, 47, 54, 55 and 60.

MR. DRATEL: Yes, Your Honor.

THE COURT: And thank goodness that adds up to 12.

Okay. Now we have a separate panel of 12 as against which you will each get three challenges.

The government goes first.

MR. ARIAIL: 70, Your Honor.

THE COURT: Sorry? 70?

MR. ARIAIL: Yes.

MR. DRATEL: 79, Your Honor.

THE COURT: And then you go again because you lead off round two.

MR. DRATEL: Right.

83.

MR. ARIAIL: 68, Your Honor.

THE COURT: You go again.

MR. ARIAIL: 84.

THE COURT: There is one left. It belongs to the defendant.

MR. DRATEL: 86, Your Honor.

THE COURT: Okay. So alternate 1 is 66, A-2 is 67, A-3 is 76, A-4 is 80, A-5 is 81 and the last alternate is 82.

Okay. Here is what we will do. I am going to take care of -- I will have Ilene excuse from back there everyone who has been struck. We are going to bring in our jury because I want to give them a few admonitions. I am not going to swear them now. I will swear them in the morning. I want to give them a little pep talk and tell them to not talk about the case and the like.

Guarding against the possibility that overnight we will lose one of these unsworn jurors or alternates, I am going to bring a few extra, the ones we didn't get to, the next dozen or so, back tomorrow. We'll have them downstairs, just in case we have any attrition. It won't be the first time.

Then tomorrow morning we will swear the jury and have opening statements.

All right?

MR. DuCHARME: Yes, Your Honor.

(Continued on next page.)

(Pause.)

THE COURT: We're going to take a few minutes. We can be in recess for ten minutes. I have to do some sorting out among these 40 people.

All right.

(Recess.)

(Open court.)

THE COURT: Please be seated.

You can bring the jury, please, Ilene.

(Pause.)

THE COURT: Obviously Alternate One is not here. All the critical stuff I'm going to read tomorrow when the jury is sworn.

(Prospective jurors present.)

THE COURT: Please be seated everyone.

You're our jury, you're most of our jury. Alternate One had an appointment this afternoon so I excused him, but that chair will be filled tomorrow morning when you come back and I'm going to excuse you now.

You'll get a few more instructions before you go home for the day, but I just wanted to see you and say thanks to you, tell you a few more things before I let you go for the day.

We're going to start the trial tomorrow. Remember what this is all about, this is a criminal case. The burden in a criminal case is on the government to prove guilt beyond a reasonable doubt. The defendant, Betin Kaziu, is presumed innocent of the charges against him, need not prove his innocence, need not prove anything.

He doesn't need to take the witness stand, he can if he wants to, but doesn't have to. It can't be held against him if he doesn't. All of those principles flow from the basic principle that the burden of proof is on the government to prove guilt beyond a reasonable doubt.

We start court at 9:30 every day but I don't want you here at 9:29. If you look around, you will see if one of us is late many people are kept waiting. So I promise you this, I will do my level best to make sure that you're only here for as long as is absolutely necessary for the parties in this case to get the fair trial they're entitled to and not a moment more than that.

But I need you to do your part. I need you to anticipate mass transit mayhem, you know, traffic jams and subways breaking down. Leave early. There is no harm in being here early, and I ask you to make sure that each and every trial day you're here so we can start promptly at 9:30 and that's when we'll start.

We go to 5:00. Unless it's an a tremendous inconvenience on one of you, if I have a witness on the stand at 5 o'clock and by sitting till 5:10 or 5:15, or thereabouts, we can keep that witness from coming back the next day, I'd like to finish up the witness so we can move the trial along. You'll let me know if that poses a problem for you if that happens during the course of the trial.

We take an hour break for lunch. You'll have your lunches served to you. Don't discuss the case until it comes time to deliberate. Every single time you leave this courtroom I'm going to repeat to you don't discuss the case.

It is not like there's anything to discuss yet, but as the trial progresses there will be plenty to discuss but you will avoid it, you won't discuss the case. More about that tomorrow, but I want to reiterate to you, don't discuss the case, don't talk about the case with others, don't let others talk about the case with you.

Cases like this involve politically charged issues; sometimes there is press coverage of a case and, as you know, I've taken steps to make sure that people can't approach you and talk to you about the case. I don't want reporters coming up to you and asking but the case, they can do when the case over. That's why you're numbers and not names.

I want to have this case, like all cases, respect the proposition that jurors must bring to bear on their verdicts only the evidence that they hear in the course of the trial and the exhibits I receive in evidence during the course of the trial.

So you're going to be going home at night, but in a very really sense everything I've mentioned to you is designed to respect that principle, to quarantine you in that sense.

We live in a world where I can't reasonably tell you to stay off the computer, we have gotten beyond that. But I am going to instruct you that you have to respect the principle that I've just identified for you, and articulated for you. You can't go looking for information about this case, cases like it, people involved in the case, I don't want you doing that; I'm ordering you are not to do it.

Just as I'm taking steps to protect you from anyone trying to contact you, a reporter or something, I need you to make sure you don't go out and find information about the case.

When you're in that juryroom, when it does come time for you to discuss the case among yourselves in deliberations, I want your deliberations to be based on the evidence and not on other information you found or was communicated to you outside the courtroom during the trial.

No blogging about the case, no tweeting about the case, no communicating with others in any way, shape or form about the case during the trial. You can't do that. I'm ordering you not to.

When you come back tomorrow, we'll have opening statements and before opening statements I will have about five minutes of instructions for you about how the trial will proceed and the like. For now, I will let you go.

Ilene is going to have some instructions for you and all I have left to say is good night, safe home. Don't discuss the case. Have a nice evening. Make sure you're here promptly tomorrow, that you follow your instructions about getting where you need to get tomorrow, and we'll see you in the morning.

Good night.

(Jury excused.)

THE COURT: About how long is your opening?

MR. DuCHARME: About ten minutes, your Honor.

THE COURT: Are you giving it.

MR. DuCHARME: Yes, your Honor.

THE COURT: Will the defense be making an opening statement?

MR. STERN: Yes.

THE COURT: Approximately how long?

MR. STERN: You have to ask the guy giving it.

MR. STEINGLASS: Since I'm hearing their opening statement time, I may have to reduce mine. I expect it will be a lot more than ten minutes.

THE COURT: All right. Remember, it's just an opening. If I think it's becoming more than an opening you'll be the first to know.

Then what? Who are you calling tomorrow?

MR. KAZEMI: The first two witnesses, your Honor, will be a witness from the Kosovo Police Service and a detective from the Joint Terrorism Task Force.

THE COURT: What are their names?

MR. KAZEMI: Besim Rexhepi is the first. The second witness is Detective Austin Crimmins.

THE COURT: All right. Who follows that?

MR. ARIAIL: The cooperating witness, Sulejmah Hadzovic. He'll be testifying on direct I think through the end of the day, possibly into the following day.

THE COURT: That is a lengthy direct, I take it?

MR. ARIAIL: Yes, your Honor.

THE COURT: From now on we're going to refer to our jurors by the number they have in the box.

I'm not clear on this, my marching orders when it comes to deposition testimony. You're offering some testimony?

MR. ARIAIL: We're contemplating some testimony. I hope to get a letter to you in response to defense counsel's letter in the next couple of days.

It's much more likely that the government would save its testimony for a rebuttal case, should the defense have a case. So I'll get something to you very shortly if I could.

THE COURT: All right.

I don't want to plow a lot of time into it if it's speculative. I want to you keep me posted so we're not sitting around waiting for me to make these rulings. I think I do have teed up some -- I've forgotten the name of the witness for whom I've got some objections, but that's in your defense case, correct?

MR. STERN: Yes. I sent you objections on all of the witnesses we intend to call. The government has given me -- and to be fair, they e-mailed it to me earlier, but due to my incompetence I couldn't open it, but I'm going to respond to their objections by day after tomorrow, I hope, probably.

So you have them. I did mine in blue they did theirs in red. I'm going to do my answers to those in some other color, green.

THE COURT: Why don't we put an end to that responding to one another. Fair enough. What are the names of these witnesses?

MR. STERN: Bajram Berisha, Armend Kalandari and Hamedin Berisha. I might say it wrong.

THE COURT: So that stuff is not coming at this point unless things changes, and you better give me some warning if it changes, please.

Not coming until the defense case?

MR. ARIAIL: There is a small possibility, your

Honor, that it could come at the end of the government's direct case, which I wouldn't anticipate ending until next week sometime.

THE COURT: Give me some warning.

MR. ARIAIL: I definitely will.

THE COURT: What else is pending?

MR. DRATEL: I want to clarify. I think the government is talking about a fourth witness though, not those three.

THE COURT: That's what I thought. Is that right?

MR. ARIAIL: Sujehb Mazllami.

THE COURT: What else is pending?

MR. ARIAIL: There are motions that the government filed, a motion in limine -- two motions in limine related to coconspirator statements and also related to post-arrest statements.

THE COURT: I've seen that. Okay. Anything else pending?

MR. DRATEL: Your Honor, I don't know if you prefer a letter or for me to do it tomorrow morning in terms of completeness and the issue of the post-arrest statement, in particular.

THE COURT: This is because they want to have part of the post-arrest statement in and seek to preclude on hearsay grounds. All right.

You can respond either in writing -- when do you intend to elicit that?

MR. KAZEMI: The second witness testifying tomorrow morning will be testifying about the defendant's post-arrest statement.

THE COURT: All right. You want to respond in writing or do you want to respond --

MR. DRATEL: If I can get a letter together. If not, I will do it in the morning first thing if you want.

THE COURT: If you don't send me a letter, why don't we plan on reconvening at 9:20 instead of 9:30. I would rather not use the jury's time.

MR. ARIAIL: The cooperating witness will be testifying about coconspirator statements tomorrow.

THE COURT: Understood. We will deal with that. If you don't respond in writing, you don't have to, but you can give to it me orally at 9:20. We'll convene at 9:20. If we have gotten a letter from Mr. Dratel, I'll see you at 9:30 instead. Fair enough?

MR. KAZEMI: Thank you.

MR. DRATEL: Yes.

THE COURT: Good night.

MR. STEINGLASS: Your Honor, can I put this on the record to save time tomorrow morning?

THE COURT: Surely.

MR. STEINGLASS: I signed two stipulations a few minutes ago. We have signed a number of other stipulations, but this particular stipulation, one of them refers to Mr. Kaziu's hard drive and the stipulation basically is to deal with the mechanical part, about authenticity, but even though we say in the stipulation it is therefore stipulated that the evidence referred to is admissible, it's understood between both sides that any objections we may have by way of relevance, prejudice, hearsay, any objection of that sort, substantive objections to the contents are preserved.

THE COURT: Okay. That goes without saying, but there is no harm in saying it.

MR. STEINGLASS: I don't know if Mr. DuCharme wants to put on the record what he told me yesterday, which is that with respect to a particular search warrant application in the case, it was discovered -- I was told yesterday there some sort of error as to where the SIM card was found. I said I thought it should be put on the record.

MR. DuCHARME: I'm happy to do that.

I can explain what Mr. Steinglass is referring to.

One of the search warrant applications in the case that the government made to Magistrate Judge Levy concerned a cellphone and a SIM card.

At the time we made the application it was our understanding that the cellphone and the SIM card were discovered in the same place, in other words on the person of the defendant.

We later discovered that the SIM card was actually found in the defendant's apartment and the cellphone separately on his person.

I alerted Mr. Steinglass to that fact to the extent he thought it was material to the probable cause analysis.

I think we have decided that we don't think it is, but Mr. Steinglass wanted us to put that on the record.

THE COURT: Okay. It's been done.

MR. STEINGLASS: So therefore when you denied the suppression motion, for whatever it's worth, it would simply apply to this item as well?

THE COURT: Therefore what?

MR. STEINGLASS: We made a motion to suppress the items from the apartment. Your Honor denied the motion.

This is one of the items that would now be included in that denied motion.

THE COURT: Are you telling me this or -- is this a renewed application for some relief.

MR. DuCHARME: Mr. Steinglass asked that we make a record.

MR. STEINGLASS: I just thought that there was an error in the search warrant application made to this court ought to be put on the record, that what I was told yesterday that now the error has been discovered and put on the record. At this moment we're not seeking any relief.

THE COURT: Thank you, sir.

Anything else today?

MR. DuCHARME: Nothing from the government.

THE COURT: See you tomorrow. Good night.

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